

# NORTHERN TERRITORY OF AUSTRALIA

## LEGAL PRACTITIONERS REGULATIONS

As in force at 1 May 2004

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 May 2004

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## LEGAL PRACTITIONERS REGULATIONS

### Regulations under the *Legal Practitioners Act*

#### **1 Citation**

These Regulations may be cited as the *Legal Practitioners Regulations*.

#### **1A Admission fees**

For the purposes of section 14A(1) of the Act, all applicants for admission are in one class and the admission fee in respect of that class is \$100.

#### **2 Section 20(3) prescribed fee**

For the purposes of section 20(3) of the *Legal Practitioners Act* the prescribed fee is \$500.

#### **2A Functions of holder of restricted practising certificate class 3 under section 22(3B)**

- (1) Subject to subregulation (2), a legal practitioner who holds, or is to be deemed to hold, a restricted practising certificate class 3 may perform all the functions of a legal practitioner on behalf of:
  - (a) his employer; and
  - (b) where his employer is a corporation within the meaning of the Corporations Act 2001, any other such corporation as is described in subregulation (3).
- (2) A legal practitioner who holds, or is to be deemed to hold, a restricted practising certificate class 3 shall not:
  - (a) receive or hold trust moneys; or
  - (b) perform legal work for a person who is an employee, director or office-bearer of the practitioner's employer, or of a corporation described in subregulation (3), unless the work relates directly to the functions performed by that person in the

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business of the employer or that corporation.

- (3) The corporations referred to in subregulation (1)(b) are:
- (a) any corporation which is related within the meaning of section 7(5) of the Corporations Act 2001 to the employer;
  - (b) any corporation:
    - (i) for which the employer has agreed to provide legal services or general management services; and
    - (ii) of which the employer, or a corporation related as mentioned in paragraph (a) to the employer, is a shareholder; and
  - (c) any corporation which is involved in a joint venture with the employer, or with a corporation within paragraph (a) or (b), where the employer has agreed to provide legal services or general management services for that joint venture.

**2B      Employment counting towards unrestricted practising certificate**

The following departments, bodies and organizations are prescribed for the purposes of section 25(1)(c) of the Act:

The Attorney-General's Department of the Commonwealth of Australia

The Australian Government Solicitor

The Northern Land Council

The Central Australian Aboriginal Legal Aid Service Inc.

The Central Land Council

The Katherine Regional Aboriginal Legal Aid Service Inc.

The Law Society Northern Territory

The Northern Australian Aboriginal Legal Aid Service Inc.

The Solicitor for the Northern Territory

The Northern Territory Legal Aid Commission

The Office of the Director of Public Prosecutions

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The Parliamentary Counsel's Office of the Department of the Chief Minister.

The Pitjantjatjara Council Inc.

### **3 Practising certificate fees**

For the purposes of section 32(1) of the Act, the prescribed amount is:

- (a) for an unrestricted practising certificate where the applicant is not a visiting counsel, \$1 400;
- (b) for an unrestricted practising certificate where the applicant is a visiting counsel, \$1 400; and
- (c) for a restricted practising certificate, \$1 260.

### **4 Prohibited non-legal services and businesses of incorporated legal practice – section 35AE(3) of Act**

- (1) An incorporated legal practice must not act as the conveyancing lawyer for the purchaser of a property if the legal practice or a related body corporate of the legal practice acts:
  - (a) as real estate agent for the vendor in the sale of the property; or
  - (b) as the finance broker for the purchaser.

Penalty: 500 penalty units.

- (2) A related body corporate of an incorporated legal practice must not act as the conveyancing lawyer for the purchaser of a property if the body corporate, another related body corporate of the legal practice or the legal practice acts:
  - (a) as real estate agent for the vendor in the sale of the property; or
  - (b) as the finance broker for the purchaser.

Penalty: 500 penalty units.

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**4A Particulars of notice of intention to commence providing legal services**

For section 35AG(1) of the Act, the following particulars are the contents of a corporation's notice of intention to commence providing legal services in this jurisdiction:

- (a) the corporation's name;
- (b) the corporation's Australian Business Number;
- (c) the address of the corporation's registered office;
- (d) the address of the corporation's proposed principal place of practice in this jurisdiction;
- (e) the name, residential address and date and place of birth of –
  - (i) each lawyer director;
  - (ii) each non-lawyer director; and
  - (iii) each employee who is a legal practitioner;
- (f) the kinds of services (other than legal services) and businesses the corporation proposes to provide or conduct in this jurisdiction;
- (g) the date the corporation intends commencing to provide legal services in this jurisdiction.

**4B Prescribed period and particulars for notice of termination of provision of legal services**

- (1) For section 35AH(1) of the Act, the period for giving notice of a corporation ceasing to provide legal services in this jurisdiction is one month.
- (2) For section 35AH(1) of the Act, the following particulars are the contents of a corporation's notice of ceasing to provide legal services in this jurisdiction:
  - (a) the corporation's name;
  - (b) the corporation's Australian Business Number;
  - (c) the address of the corporation's registered office;
  - (d) the former address of the corporation's principal place of practice in this jurisdiction;

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- (e) the name, residential address and date and place of birth of:
    - (i) each lawyer director;
    - (ii) each non-lawyer director; and
    - (iii) each employee who is a legal practitioner;
  - (f) the kinds of services (other than legal services) and businesses the corporation formerly provided or conducted in this jurisdiction;
  - (g) the date the corporation ceased to provide legal services in this jurisdiction.

**4C Prohibited services and businesses of multi-disciplinary partnership – section 35AZO(2) of Act**

A lawyer who acts as the conveyancing lawyer for the purchaser of a property must not be in partnership with a person who acts:

- (a) as real estate agent for the vendor in the sale of the property;  
or
- (b) as the finance broker for the purchaser.

Penalty: 100 penalty units.

**4D Particulars of notice of intention to commence practice in multi-disciplinary partnership**

For section 35AZP(2) of the Act, the following particulars are the contents of a lawyer partner's notice of intention to commence providing legal services as a member of a multi-disciplinary partnership in the Territory:

- (a) the name and residential address of each partner;
- (b) the kinds of services (other than legal services) and businesses the partnership proposes to provide or conduct in the Territory.

**4E Publication and notification of certain Court orders**

As soon as practicable after the making of an order under section 35AZD, 35AZE or 35AZZE of the Act, the Law Society must:

- (a) publish notice of the making of the order in:
  - (i) the *Gazette*;

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- (ii) a newspaper circulating generally in the Territory; and
  - (iii) "Balance", the journal published by the Society; and
- (b) for an order under section 35AZE – notify each interstate regulatory authority of the making of the order

**5 Legal assistance rules**

- (1) The provisions of this regulation are the legal assistance rules for the purposes of section 51(8A) of the Act.
- (2) The Complaints Committee may only direct a legal practitioner in accordance with section 51(8)(b) of the Act if:
  - (a) the person is unable to pay the costs of a legal practitioner in the matter; and
  - (b) there are compelling reasons why the person should be assisted by a legal practitioner.
- (3) For the purposes of subregulation (2)(b), compelling reasons include, but are not limited to, the following:
  - (a) the person would be severely disadvantaged because of the person's limited English skills, intellectual capacity or education or because of some other reason that is accepted by the Complaints Committee;
  - (b) the complaint raises issues that are of general application, in the public interest or particularly complex.

**13 Notice by interstate legal practitioner of commencing to practise in Territory**

For section 134J(1) of the Act, the time for lodging notice with the Law Society is 10 working days after commencing to practise in the Territory.



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## ENDNOTES

### 1 KEY

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

### 2 LIST OF LEGISLATION

***Legal Practitioners Regulations (SL No. 26, 1980)***

Notified	11 July 1980
Commenced	11 July 1980

***Amendments of the Legal Practitioners Regulations (SL No. 54, 1982)***

Notified	30 September 1982
Commenced	1 October 1982 (r 1)

***Amendments of the Legal Practitioners Regulations (SL No. 55, 1984)***

Notified	19 September 1984
Commenced	19 September 1984

***Amendment of the Legal Practitioners Regulations (SL No. 35, 1986)***

Notified	17 September 1986
Commenced	17 September 1986

***Amendment of the Legal Practitioners Regulations (SL No. 38, 1987)***

Notified	30 September 1987
Commenced	1 October 1987 (r 1)

***Amendment of the Legal Practitioners Regulations (SL No. 40, 1988)***

Notified	30 September 1988
Commenced	30 September 1988

***Amendments of the Legal Practitioners Regulations (SL No. 31, 1989)***

Notified	8 November 1989
Commenced	8 November 1989

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***Director of Public Prosecutions (Consequential Amendments) Act 1990 (Act No. 29, 1990)***

Assent date	11 June 1990
Commenced	21 January 1991 (s 2, s 2 <i>Director of Public Prosecutions Act 1990</i> (Act No. 35, 1990) and Gaz G2, 16 January 1991, p 9)

***Amendments of Legal Practitioners Regulations (SL No. 31, 1990)***

Notified	30 August 1990
Commenced	1 September 1990 (r 1 and s 2 <i>Legal Practitioners Amendment Act (No. 2) 1990</i> (Act No. 43, 1990))

***Amendment of Legal Practitioners Regulations (SL No. 41, 1990)***

Notified	1 October 1990
Commenced	1 October 1990

***Amendments of Legal Practitioners Regulations (SL No. 29, 1993)***

Notified	8 September 1993
Commenced	1 October 1993 (r 1)

***Amendment of Legal Practitioners Regulations (SL No. 33, 1993)***

Notified	1 October 1993
Commenced	1 October 1993

***Amendment of Legal Practitioners Regulations (SL No. 35, 1996)***

Notified	10 July 1996
Commenced	10 July 1996

***Amendment of Legal Practitioners Regulations (SL No. 36, 1998)***

Notified	1 October 1998
Commenced	1 October 1998

***Amendment of Legal Practitioners Regulations (SL No. 49, 2000)***

Notified	1 October 2000
Commenced	1 October 2000 (r 1, s 2 <i>Legal Practitioners Amendment Act 2000</i> (Act No. 29, 2000) and Gaz G29, 26 July 2000, p 4)

***Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)***

Assent date	29 June 2001
Commenced	15 July 2001 (s 2, s 2 <i>Corporations Act 2001</i> (Cth Act No. 50, 2001) and Cth Gaz S285, 13 July 2001)

***Statute Law Revision Act (No. 2) 2001 (Act No. 62, 2001)***

Assent date	11 December 2001
Commenced	11 December 2001

***Amendment of Legal Practitioners Regulations (SL No. 4, 2002)***

Notified	10 April 2002
Commenced	10 April 2002

***Statute Law Revision Act 2002 (Act No. 18, 2002)***

Assent date	7 June 2002
Commenced	7 June 2002

***Amendment of Legal Practitioners Regulations (SL No. 35, 2002)***

Notified	1 October 2002
Commenced	1 October 2002

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**Statute Law Revision Act (No. 2) 2002 (Act No. 59, 2002)**

Assent date	7 November 2002
Commenced	7 November 2002

**Amendments of Legal Practitioners Regulations (SL No. 10, 2004)**

Notified	28 April 2004
Commenced	1 May 2004 (r1, s 2 <i>Legal Practitioners Amendment (Incorporated Legal Practices and Multi-Disciplinary Partnerships) Act 2003</i> (Act No. 51, 2003) and Gaz G17, 28 April 2004, p 2)

### 3 LIST OF AMENDMENTS

r 1AA	ins No. 31, 1990, r 2 rep No. 33, 1993, r 2
r 1A	ins No. 54, 1982, r 2 amd No. 40, 1988, r 1
r 2	amd No. 31, 1989
r 2A	ins No. 38, 1987, r 2 amd Act No. 17, 2001, s 22
r 2B	ins No. 38, 1987, r 2 amd No. 40, 1988, r 2; Act No. 29, 1990, s 7; No. 35, 1996; No. 62, 2001, s 17; No. 18, 2002, s 7; Act No. 59, 2002, s 3
r 3	ins No. 54, 1982, r 2 amd No. 55 1984; No. 35, 1986; No. 40, 1988, r 3; No. 41, 1990; No. 29, 1993, r 2; No. 36, 1998; No. 35, 2002, r 2
r 4	ins No. 49, 2000, r 2 sub No. 10, 2004, r 2
rr 4A – 4E	ins No. 10, 2004, r 2
r 5	ins No. 4, 2002
r 13	ins No. 10, 2004, r 3
sch 1	ins No. 31, 1990, r 3 rep No. 33, 1993, r 2