

# NORTHERN TERRITORY OF AUSTRALIA

## LEGAL PRACTITIONERS (INCORPORATION) ACT

As in force at 11 December 2001

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## 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*.

### **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.

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## **5            Approval of applications**

- (1) The Chief Justice shall not approve the formation of a practising company unless the proposed constitution of the proposed company:
  - (a) provides 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) provides 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) provides 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) provides 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) contains such other provisions as may be prescribed,and is 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 constitution 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 Act 2001.

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- 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 a constitution approved under section 5.
- (2) An alteration to the constitution 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.

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## ENDNOTES

### 1 KEY

Key to abbreviations

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exp = expires/expired	rep = repealed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

### 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	1 January 1991 (s 2, s 2 <i>Corporations (Northern Territory) Act 1990</i> (Act No. 56, 1990) and <i>Gaz</i> S76, 21 December 1990)

***Statute Law Revision Act (No. 2) 1999 (Act No. 48, 1999)***

Assent date	10 November 1999
Commenced	10 November 1999

***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 <i>Cth Gaz</i> S285, 13 July 2001)

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

Assent date	10 November 1999
Commenced	s 6: 15 July 2001; s 8: 1 January 2001; s 9(2): 29 June 2001; rem: 11 December 2001 (s 2)

### 3 LIST OF AMENDMENTS

s 2	amd No. 59, 1990, s 4 rep No. 17, 2001, s 21
s 5	amd No. 59, 1990, s 4; No. 48, 1999, s 3; No. 17, 2001, s 21; No. 52, 2001, s 15
s 6	amd No. 59, 1990, s 4; No. 48, 1999, s 3