

NORTHERN TERRITORY OF AUSTRALIA

LEGAL PRACTITIONERS (PROFESSIONAL INDEMNITY) REGULATIONS

As in force at 30 April 2003

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 30 April 2003

LEGAL PRACTITIONERS (PROFESSIONAL INDEMNITY) REGULATIONS

Regulations under the *Legal Practitioners Act*

1 Citation

These Regulations may be cited as the *Legal Practitioners (Professional Indemnity Insurance) Regulations*.

2 Commencement

These Regulations shall come into operation on 1 October 1982.

3 Definitions

In these Regulations, unless the contrary intention appears:

authorized insurer means the authorized insurer under an arrangement entered into with the Law Society under section 35B of the Act.

authorized policy means the policy of professional indemnity insurance provided by the authorized insurer.

certificate of insurance means a certificate in the form approved by the Law Society stating a legal practitioner or former legal practitioner is granted professional indemnity insurance pursuant to these Regulations by the authorized insurer.

former legal practitioner means a person who has ceased for any reason to practise as a legal practitioner in private practice and who has, or whose successors in the practice have, at any time been insured under the authorized policy, and includes the estate and legal representatives of a former legal practitioner.

4 Prescribed classes of practitioners

For the purposes of Part IVA of the Act, the prescribed class of legal practitioners and former legal practitioners is all legal practitioners and former legal practitioners except a legal practitioner employed or previously employed on a continuous full time basis by the Territory, Commonwealth or an authority of either

the Territory or Commonwealth.

5 Legal practitioners to insure

- (1) Subject to subregulation (3), a legal practitioner who is a member of a class of legal practitioners prescribed by regulation 4 shall take out, and at all times maintain, with authorized insurers professional indemnity insurance on the terms and conditions specified in and in accordance with the authorized policy.
- (2) In addition to any other penalty imposed under these Regulations, a legal practitioner who fails to comply with subregulation (1) shall pay interest on an amount which he would be required to pay to the authorized insurers if he had duly complied with that subregulation at the rate of 15% per annum on and after the date on which he would have been required to pay that sum until the date of payment of that sum to the authorized insurers unless the Law Society, as it thinks fit, waives the payment of such interest in whole or in part.
- (3) Subregulation (1) does not apply to a legal practitioner or class of legal practitioners for the time being exempted under subregulation (4).
- (4) The Law Society may:
 - (a) exempt from compliance with these Regulations a legal practitioner or person who is a member of a specified class of legal practitioners;
 - (b) grant an exemption referred to in paragraph (a) indefinitely or for a specified period or subject to any other conditions determined by the Society; and
 - (c) revoke an exemption granted by the Society or vary conditions referred to in paragraph (b).

6 Issue of certificate of insurance – general

- (1) As soon as practicable after a legal practitioner takes out professional indemnity insurance pursuant to these Regulations, the authorized insurer must issue a certificate of insurance to the practitioner.
- (2) The authorized insurer may issue a certificate of insurance to a former legal practitioner who is insured under the authorized policy.

7 Arbitration

The *Commercial Arbitration Act* does not apply in relation to the arbitration of disputes under or arising out of the authorized policy.

8 Issue of certificate of insurance on reduced premium

- (1) Before a certificate of insurance is issued to a legal practitioner on the basis of a reduced premium, the Law Society may require the practitioner to make a statutory declaration setting out such facts and circumstances as entitle that practitioner to receive a certificate of insurance at a reduced premium.
- (2) Subregulations (2A) and (2B) apply to a legal practitioner who is entitled under the authorized policy to a reduced premium because of the practitioner's estimated low fee income.
- (2A) Within 2 months after the end of the period of insurance to which the certificate relates, the practitioner must give the Law Society a statutory declaration stating the gross fee income earned by the practitioner in the period.

Penalty: 20 penalty units.

- (2B) The legal practitioner must pay the authorized insurer, the additional amount required to ensure there is paid for the period the total premium under the authorized policy based on the practitioner's actual gross fee income for the period.
- (3) Where:
 - (a) during the currency of the authorized policy, a legal practitioner first becomes a member of a class of legal practitioners prescribed by regulation 4 and is not exempt under regulation 5 from taking out and maintaining professional indemnity insurance; or
 - (b) where a legal practitioner who is exempt under regulation 5 from taking out and maintaining professional indemnity insurance ceases to be so exempt,

the legal practitioner shall as soon as practicable take out and maintain with the authorized insurers professional indemnity insurance on the terms and conditions of the authorized policy.

9 Law Society may require information

- (1) The Law Society may, by notice in writing to a legal practitioner, within a period specified in the notice, require him to furnish to the Society such information as it thinks fit to ascertain in any particular circumstances whether an adjustment of premium under regulation 8 is necessary.

(1A) The legal practitioner must comply with the notice.

Penalty: 20 penalty units.

(2) Where a legal practitioner fails to comply with a notice under subregulation (1), the authorized insurer or Law Society may refuse to renew his certificate of insurance until he has complied with regulation 8.

10 Interest on premium

A legal practitioner who is liable to pay an amount under regulation 8 shall pay interest on such amount at the rate of 15% per annum on and after the due date of payment until the date of payment, unless the Law Society, as it thinks fit, waives the payment of such interest in whole or in part.

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
Gaz = <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 (Professional Indemnity Insurance) Regulations (SL No. 55, 1982)

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

Amendment of Legal Practitioners (Professional Indemnity Insurance) Regulations (SL No. 47, 2002)

Notified	27 November 2002
Commenced	27 November 2002

Amendments of Legal Practitioners (Professional Indemnity Insurance) Regulations (SL No. 28, 2003)

Notified	30 April 2003
Commenced	30 April 2003

3 LIST OF AMENDMENTS

r 3	sub No. 28, 2003, r 2
r 5	amd No. 47, 2002; No. 28, 2003, 3
r 6	sub No. 28, 2003, r 4
r 7	sub No. 28, 2003, r 5
r 8	amd No. 28, 2003, r 6
r 9	amd No. 28, 2003, r 7
r 11	rep No. 28, 2003, r 8
sch 1 – 2	rep No. 28, 2003, r 9