

NORTHERN TERRITORY OF AUSTRALIA

LEGAL PRACTITIONERS COMPLAINTS COMMITTEE RULES

As in force at 7 July 2003

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 7 July 2003

LEGAL PRACTITIONERS COMPLAINTS COMMITTEE RULES

Rules under the *Legal Practitioners Act*

1 Citation

These Rules may be cited as the *Legal Practitioners Complaints Committee Rules*.

2 Forms

In these Rules, a reference to a form by number is a reference to a form so numbered in the Schedule.

3 Notice of appeal to Complaints Committee

A notice of appeal under section 49(1) of the Act shall be in accordance with Form 1.

4 Charge of professional misconduct

A charge of professional misconduct under section 50(1) of the Act shall be in accordance with Form 2, and, in the case of a charge by a person who lodged a complaint under section 46 of the Act and who is not satisfied with the Law Society's disposal of the matter, shall be lodged with the Secretary of the Complaints Committee within 21 days after the person receives notice of the disposal of the complaint.

5 Notice of inquiry

A notice of an inquiry, under section 50A of the Act:

- (a) to the legal practitioner or former legal practitioner whose conduct is the subject of the inquiry – shall be in accordance with Form 3; and
- (b) to the person on whose application the inquiry is to be held – shall be in accordance with Form 4.

6 Summons

A summons under section 51(1) of the Act shall be in accordance with Form 3 or Form 5, as the case requires.

7 Certificate of refusal

A certificate under section 51(4)(a) or (b) of the Act shall be in accordance with Form 6.

8 Certificate of costs

A certificate under section 51A(3) of the Act shall be in accordance with Form 7.

9 Notice of appeal to Supreme Court

A notice of appeal under section 51B of the Act shall be in accordance with Form 8.

10 Service of notices, &c.

- (1) Subject to subrule (2), the service of a document on a person may be effected by serving it on him personally or by leaving a copy with a person, who has apparently attained the age of 16 years, at the address for service or last known place of business or abode of the person on whom it is to be served, or by posting it to him at his address for service or last known place of business by prepaid certified or registered mail.
- (2) Where it appears to the Complaints Committee that service or reasonably prompt service of a document cannot be effected under subrule (1), it may make such order for substituted or other service or for the substitution of notice by letter, telegram, public advertisement, or otherwise, as it thinks fit.

11 Signing by Complaints Committee

A notice required to be given, or other document required to be signed by or on behalf of the Complaints Committee, may, except where otherwise provided by the Act, be signed by the Chairman or Secretary or by a person duly authorized by the Complaints Committee in that behalf.

12 Action by Complaints Committee

Where a charge has been laid under section 50(1) of the Act, the Complaints Committee may:

- (a) request the person laying the charge to provide further particulars of the charge within the time fixed by the Complaints Committee for complying with the request; and
- (b) allow the amendment of the charge or a question or matter referred to it, or the addition of a further charge, question or matter, on such terms as it thinks fit.

13 Persons may be engaged to assist Complaints Committee

- (1) The Complaints Committee may engage a legal practitioner and such other persons as it thinks fit for the purpose of assisting it.
- (2) A legal practitioner or other person engaged under subrule (1) may, at the direction of the Complaints Committee, investigate a matter that is the subject of an appeal under section 49(1) or a charge under section 50(1) of the Act, or that is incidental to such a matter, before the commencement, or at or after the hearing, of the appeal or inquiry.
- (3) Without limiting the generality of subrule (2), the legal practitioner or other person engaged under subrule (1) may, at any reasonable time:
 - (a) inspect books, accounts, documents or writings in the custody or control of a legal practitioner or former legal practitioner by whom an appeal under section 49(1) of the Act has been lodged or against whom a charge under section 50(1) of the Act has been laid, or of a person employed by the legal practitioner or former legal practitioner; and
 - (b) make notes or copies of, or take extracts from, such books, accounts, documents or writings.
- (4) A legal practitioner engaged under subrule (1) shall, at the direction of the Complaints Committee, appear before the Complaints Committee and represent a complainant (including a person who laid a complaint under section 46 of the Act against the decision under section 47 in relation to which an appeal under section 49(1) is lodged) who is not otherwise represented by a legal practitioner before it.

14 Complaints Committee bound by rules of evidence

The Complaints Committee is, in the hearing of an appeal or inquiry, bound by the rules of evidence.

15 Documentary evidence

- (1) A person who intends to produce in evidence at the hearing of an inquiry, or as fresh evidence at the hearing of an appeal, by the Complaints Committee a book, account, document or writing shall lodge a copy of it or the relevant part of it with the Secretary of the Complaints Committee not later than 14 days before the hearing of the inquiry.
- (2) The Complaints Committee may, on such terms as to costs or otherwise as it thinks fit, accept as evidence a book, account, document or writing notwithstanding that it was not lodged with the Secretary of the Complaints Committee in accordance with subrule (1).

16 Order of appearance

- (1) At the hearing of an inquiry by the Complaints Committee:
 - (a) the person laying a charge under section 50(1) of the Act; or
 - (b) in the case of an appeal under section 49(1) of the Act, the person who laid the complaint under section 46 against the decision under section 47 in relation to which the appeal is lodged,

or the person representing him, may open his case by stating concisely the facts upon which he intends to rely, and the person against whom the charge is laid or the appellant, or the person representing him, may on the conclusion of the evidence submitted on behalf of the person laying the charge, state concisely his defence to the charge or complaint.

- (2) All arguments may be heard upon the conclusion of the presentation of all the evidence.

17 Person to act for certain parties, &c.

- (1) Where the Attorney-General or the Law Society lays a charge of misconduct under section 50(1) of the Act, he or it, as the case may be, shall appoint a person to appear to be heard and present evidence on his or its behalf.
- (2) A person appointed under subrule (1) may be present and heard at the hearing in respect of which he is so appointed.

18 **Adjournment, &c.**

The Complaints Committee may, from time to time, adjourn the hearing of an appeal or inquiry on such terms, as to costs or otherwise, as it thinks fit.

19 **Findings of Complaints Committee**

- (1) Subject to subrule (2), the Complaints Committee shall, after the conclusion of the hearing of an appeal or inquiry, make known its findings.
- (2) Where the Complaints Committee is unable to make known its findings at the conclusion of the hearing of an appeal or inquiry, it shall, at the time of the hearing, set a date, time and place when it shall make known its findings.
- (3) The Complaints Committee shall, within 7 days after making known its findings, send to all persons concerned with the appeal or inquiry a notice in writing of its findings.

20 **Records to be kept**

- (1) The Complaints Committee shall cause to be taken and kept records, in such form as it thinks fit, of all proceedings before it.
- (2) The Secretary of the Complaints Committee shall cause to be maintained a register, in a form approved by the Complaints Committee, of charges laid under section 50(1) and appeals under section 49(1) of the Act.
- (3) A copy of the transcript of proceedings before the Complaints Committee may be obtained from the Secretary of the Complaints Committee by a party to those proceedings upon the payment of the reasonable costs of preparing the copy.

21 **Documents, &c., to be available**

- (1) All books, accounts, documents and writings produced at or in connection with an appeal or inquiry by the Complaints Committee shall, unless it or a court otherwise directs, be retained by the Secretary of the Complaints Committee until:
 - (a) the time during which an appeal under section 51B of the Act may be instituted has expired; or
 - (b) where an appeal has been instituted, the determination or disposal of the appeal.

-
- (2) A legal practitioner engaged under rule 13(1) may inspect all books, accounts, documents and writings lodged with the Secretary of the Complaints Committee in relation to the appeal or inquiry in respect of which he is so engaged.
 - (3) A person who is a party to an appeal under section 49(1), or who lays a charge under section 50(1) of the Act and the legal practitioner or former legal practitioner who lodges an appeal or against whom the charge is laid may, at any reasonable time, inspect all books, accounts, documents and writings lodged with the Secretary of the Complaints Committee and, at his own expense, obtain copies thereof.
 - (4) A member of the Complaints Committee shall not, before the hearing of an appeal or inquiry by the Complaints Committee, inspect a book, account, document or writing lodged with the Secretary of the Complaints Committee, other than a document provided for in the Schedule or an annexure to such a document.

22 Time may be abridged, &c.

The Complaints Committee may, on such terms as it thinks fit, dispense with the requirements of these Rules in relation to documents, service or time in respect of proceedings before it, or may extend the time for doing anything under these Rules.

Schedule

NORTHERN TERRITORY OF AUSTRALIA

Legal Practitioners Act

Form 1

section 49(1)

rule 3

NOTICE OF APPEAL TO COMPLAINTS COMMITTEE

To: The Secretary

Legal Practitioners Complaints Committee.

I,
(name)

of
(address)

a legal practitioner, hereby give notice of appeal against the admonishment/fine* imposed by the Law Society under section 47(1)(c) of the *Legal Practitioners Act* on the, day of, 19...., on the following grounds:

(state grounds of appeal)

.....
.....
.....

Dated this day of , 19 .

.....
Appellant

* Delete if inapplicable.

NORTHERN TERRITORY OF AUSTRALIA

Legal Practitioners Act

Form 2

section 50(2)
rule 4

CHARGE OF PROFESSIONAL MISCONDUCT

To: The Secretary
Legal Practitioners Complaints Committee.

CHARGE OF PROFESSIONAL MISCONDUCT

1. I,
(name)

of
(address)

being the Attorney-General
the Secretary of the Law Society
the person who lodged a complaint under section 46 of the Act and
who is not satisfied with the
disposal of the matter*

hereby lay a charge of professional misconduct against
.....
(name)

of.....
(address)

a legal practitioner.

2. The misconduct charged is as follows:
(here set out briefly the nature of the misconduct charged)
.....
.....
.....

3. The particulars relied on are as follows:/set out in the statement
annexed hereto*

Dated this day of , 19 .

.....
Signature
Profession, business or occupation

* Delete if inapplicable.

NORTHERN TERRITORY OF AUSTRALIA

Legal Practitioners Act

Form 3

section 50A and 51(1)(a)
rule 5(a)

NOTICE OF INQUIRY AND SUMMONS TO ATTEND

To:
(name)

of
(address)

legal practitioner/former legal practitioner*.

A charge of misconduct has been laid against you by

.....
(name)

.....
(address)

to the Legal Practitioners Complaints Committee under section 50 of the *Legal Practitioners Act*.

A copy of the charge accompanies this notice.

The Complaints Committee will sit on theday of,
19... at o'clock in the at

You are hereby summoned to attend the inquiry by the Legal Practitioners Complaints Committee to be held at the time and place specified herein.

If you fail to attend at the time and place specified herein, the Complaints Committee may proceed with the inquiry in your absence. It is also an offence against section 51(3) of the Act to neglect or fail without reasonable excuse to attend before the Complaints Committee having been summonsed to do so.

You may call and give evidence, examine or cross-examine witnesses and make submissions to the Complaints Committee.

You are entitled to be represented at the inquiry by counsel.

You may inspect the books, papers or documents or a copy of any book, paper or document furnished to the Complaints Committee in relation to the inquiry.

Dated this day of , 19 .

.....
Chairman
Legal Practitioners Complaints Committee

* Delete if inapplicable.

NORTHERN TERRITORY OF AUSTRALIA

Legal Practitioners Act

Form 4

section 50A
rule 5(b)

NOTICE OF INQUIRY

To:
(name)

of
(address)

The Complaints Committee will sit on the day of, 19...,
being not less than 7 days after the date of this notice, to conduct an inquiry
into the charge of misconduct against:

.....
(name)

of
(address)

to the Complaints Committee under section 50 of the *Legal Practitioners Act*
laid by you.

If you fail to attend at the time and place specified herein, the Complaints
Committee may proceed with the inquiry in your absence.

You may call and give evidence, examine or cross-examine witnesses and to
make submissions to the Complaints Committee.

You are entitled to be represented at the inquiry by counsel.

You may inspect the books, papers or documents or a copy of any book,
paper or document furnished to the Complaints Committee in relation to the
inquiry.

Dated this day of , 19 .

.....
Secretary
Legal Practitioners
Complaints Committee

NORTHERN TERRITORY OF AUSTRALIA

Legal Practitioners Act

Form 5

section 51(1)
rule 6

SUMMONS

To:
(name)

of
(address)

1. You are hereby summoned to attend an inquiry by the Legal Practitioners Complaints Committee into a charge of professional misconduct under section 50 of the *Legal Practitioners Act* made against:

.....
(name)

of
(address)

The Complaints Committee will sit on the day of, 19... at o'clock at If you fail to attend at the time and place specified herein, the Complaints Committee may proceed with the inquiry in your absence.

*2. You are required to produce to the Complaints Committee 7 days before the hearing of the inquiry the following:
(books, papers or documents)

.....
.....

and a copy of all books, papers or documents that you propose to put in evidence.

-
3. It is an offence against section 51(3) of the Act to neglect or fail without reasonable excuse to attend before the Complaints Committee, or to comply with a summons to produce books, papers or documents, being summonsed to do so.

Dated this day of , 19 .

.....
Chairman
Legal Practitioners
Complaints Committee

* Delete if inapplicable.

NORTHERN TERRITORY OF AUSTRALIA

Legal Practitioners Act

Form 6

section 51(4)
rule 7

CERTIFICATE OF REFUSAL

I,,
(name)

the Chairman of the Legal Practitioners Complaints Committee, by virtue of section 51(4) of the *Legal Practitioners Act*, hereby certify that:

.....
(name)

of,
(address)

being a person who has been summoned under section 51(1) of the *Legal Practitioners Act* in relation to an inquiry by the Complaints Committee on the day of, 19..., at into a charge of professional misconduct by:

.....
(name)

of,
(address)

legal practitioner/former legal practitioner* made by:

.....
(name)

of,
(address)

.....
(profession/business/occupation*)

*did not attend before the Complaints Committee as required by the summons;

or

*having attended, refused to be sworn, to affirm or to answer a relevant question when required to do so by the Complaints Committee.

Dated this day of , 19 .

.....
Chairman
Legal Practitioners
Complaints Committee

* Delete if inapplicable.

NORTHERN TERRITORY OF AUSTRALIA

Legal Practitioners Act

Form 7

section 51A(3)
rule 8

CERTIFICATE OF COSTS

I,,
(name)

the Secretary of the Legal Practitioners Complaints Committee, by virtue of section 51A(3) of the *Legal Practitioners Act*, hereby certify that the fine and costs ordered in relation to an inquiry by the Complaints Committee on the day of, 19... into a charge of professional misconduct by:

.....
(name)

of,
(address)

legal practitioner/former legal practitioner* made by:

.....
(name)

of,
(address)

.....
(profession/business/occupation*)

are as follows:
(set out details of fine and costs)

Dated this day of , 19 .

.....
Secretary
Legal Practitioners
Complaints Committee

* Delete if inapplicable.

NORTHERN TERRITORY OF AUSTRALIA

Legal Practitioners Act

Form 8

section 51B
rule 9

NOTICE OF APPEAL TO SUPREME COURT

I,
(name)

of
(address)

legal practitioner/former legal practitioner* hereby appeal under section 51B of the *Legal Practitioners Act* to the Supreme Court against the reprimand/order* of the Legal Practitioners Complaints Committee on theday of, 19...

The grounds of my appeal are as follows:
(state briefly grounds of appeal)

.....
.....
.....
.....

Dated this day of , 19 .

.....
Appellant

* Delete if inapplicable.

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 Complaints Committee Rules (SL No. 45, 1983)

Notified	22 December 1983
Commenced	22 December 1983

Statute Law Revision Act 2001 (Act No. 3, 2001)

Assent date	22 March 2001
Commenced	22 March 2001

Statute Law Revision Act (No. 2) 2003 (Act No. 44, 2003)

Assent date	7 July 2003
Commenced	7 July 2003

3

LIST OF AMENDMENTS

r 13	amd Act No. 44, 2003, s 6
sch	amd Act No. 3, 2001, s 9