

NORTHERN TERRITORY OF AUSTRALIA

LEGAL PRACTITIONERS REGULATIONS

As in force at 1 June 2004

Table of provisions

1	Citation	1
1A	Admission fees	1
2	Section 20(3) prescribed fee.....	1
2A	Functions of holder of restricted practising certificate class 3 under section 22(3B)	1
2B	Employment counting towards unrestricted practising certificate	2
3	Practising certificate fees.....	3
4	Prohibited non-legal services and businesses of incorporated legal practice – section 35AE(3) of Act.....	3
4A	Particulars of notice of intention to commence providing legal services	4
4B	Prescribed period and particulars for notice of termination of provision of legal services.....	4
4C	Prohibited services and businesses of multi-disciplinary partnership – section 35AZO(2) of Act	5
4D	Particulars of notice of intention to commence practice in multi-disciplinary partnership	5
4E	Publication and notification of certain Court orders	5
5	Legal assistance rules	6
6	Prescribed amount for section 118B(5)(a) of Act.....	6
7	Prescribed person for section 118B(5)(b)(ii) of Act.....	6
8	Exemption under section 118B(5)(f) of Act.....	7
9	Prescribed proceedings for section 129A(3)(c) of Act	7
10	Application for review of costs agreements or conditional costs agreements – section 129H(1)(a) and (2) of Act.....	7
11	Exemptions under section 130AA(1)(g) of Act.....	8
12	Prescribed persons for section 130AA(2) of Act.....	8
13	Notice by interstate legal practitioner of commencing to practise in Territory	9

Schedule

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 June 2004

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

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

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.

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.

6 Prescribed amount for section 118B(5)(a) of Act

- (1) The prescribed amount of costs for section 118B(5)(a) of the Act is \$1 000.
- (2) In subregulation (1):

costs does not include disbursements.

7 Prescribed person for section 118B(5)(b)(ii) of Act

The following persons are prescribed for section 118B(5)(b)(ii) of the Act:

- (a) an interstate legal practitioner or local legal practitioner;
- (b) a practising company within the meaning of the *Legal Practitioners (Incorporation) Act* that continues in existence under section 17 of the *Legal Practitioners Amendment*

(Incorporated Legal Practices and Multi-disciplinary Partnerships) Act 2003;

- (c) a corporation that has given written notice to the Law Society of its intention to commence providing legal services in accordance with section 35AG(1) of the Act;
- (d) a public company within the meaning of the Corporations Act 2001;
- (e) a foreign company within the meaning of the Corporations Act 2001;
- (f) a subsidiary, within the meaning of the Corporations Act 2001, of a foreign company or public company;
- (g) a registered Australian body within the meaning of the Corporations Act 2001;
- (h) a person authorised to provide financial services under an Australian financial services licence within the meaning of section 761A of the Corporations Act 2001.

8 Exemption under section 118B(5)(f) of Act

A Counsel who, on accepting instructions from another legal practitioner to undertake legal work, discloses to the instructing legal practitioner the basis on which his or her costs (including disbursements) will be calculated is exempt from compliance with section 118B of the Act.

9 Prescribed proceedings for section 129A(3)(c) of Act

The following proceedings are prescribed for section 129A(3)(c) of the Act:

- (a) proceedings under the *Adoption of Children Act*;
- (b) proceedings under the *Community Welfare Act*;
- (c) proceedings under the *Crimes (Victims Assistance) Act*.

10 Application for review of costs agreements or conditional costs agreements – section 129H(1)(a) and (2) of Act

- (1) The form in the Schedule is the prescribed form for an application for review of a costs agreement or a conditional costs agreement under section 129H(1)(a).

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- (2) The application must be accompanied by the fee (which cannot exceed \$50) requested by the Law Society.
 - (3) In specifying the party to the agreement who undertook the legal work to which the agreement relates, the application must specify the name of the firm of legal practitioners and the names of the legal practitioners who undertook the legal work.

11 Exemptions under section 130AA(1)(g) of Act

The following advertisements or publications are exempt from the application of Part XA of the Act:

- (a) an advertisement or publication made by the Law Society, the Northern Territory Legal Aid Commission or a community legal centre informing persons about any of the following:
 - (i) the content of the law relating to personal injuries;
 - (ii) their rights, liabilities and duties under the law relating to personal injuries;
 - (iii) where they may obtain legal advice about the law relating to personal injuries, including the names and addresses of firms of legal practitioners that provide legal services in connection with making a claim for compensation or damages for a personal injury;
- (b) an advertisement or publication circulated within a firm of legal practitioners relating to legal services provided in connection with making a claim for compensation or damages for a personal injury by the firm or a particular legal practitioner in the firm.

12 Prescribed persons for section 130AA(2) of Act

The following persons are prescribed for section 130AA(2) of the Act:

- (a) the Northern Territory Legal Aid Commission or a person acting for and on behalf of the Commission;
- (b) a community legal centre or a supervising legal practitioner employed or engaged by the centre acting for or on behalf of the centre;
- (c) the Commissioner for Consumer Affairs or a person acting for and on behalf of the Commissioner;

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- (d) an ambassador, consul or diplomat of another country carrying out consular or diplomatic duties in the Territory.

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.

Schedule

regulation 10(1)

NORTHERN TERRITORY OF AUSTRALIA

Legal Practitioners Act

section 129H(1)(a) and (2)

APPLICATION FOR REVIEW OF COSTS AGREEMENT/CONDITIONAL COSTS AGREEMENT*

Applicant: *(name of the party making application)*

Respondent: *(name of other party to agreement)*

File references: *(if available)*

TO THE LAW SOCIETY NORTHERN TERRITORY:

1. This application is for review of the attached costs agreement/conditional costs agreement*.
2. The reason for requesting a review of the costs agreement/conditional costs agreement* is as follows:
3. The address for service of notices on the applicant, respondent and any interested parties are the following:

Applicant:
.....

Respondent:
.....

Other:
.....
4. I seek the following outcome/s from the review of the costs agreement/conditional costs agreement*:
5. I authorise the Law Society Northern Territory to have access to, and to inspect, all the documents connected with the work to which the costs agreement/conditional costs agreement* relates, and all the documents connected with that agreement, that are held by me or by any legal practitioner who has undertaken legal work for me.

6. Summarised below are the attempts made to settle this dispute.

Dated:

Signed: *(Applicant)*

* Delete whichever is inapplicable

Attach a copy of the costs agreement or conditional costs agreement to which this application relates

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 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

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

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 (r 1, 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)

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

Notified	28 April 2004
Commenced	1 June 2004 (r 1, s 2 <i>Legal Practitioners Amendment (Costs and Advertising) Act 2003</i> (Act No. 18, 2003) and Gaz G19, 12 May 2004, p 3)

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
rr 6 – 12	ins No. 11, 2004, r 2
r 13	ins No. 10, 2004, r 3
sch 1	ins No. 31, 1990, r 3 rep No. 33, 1993, r 2 ins No. 11, 2004, r 3