

NORTHERN TERRITORY OF AUSTRALIA

LEGAL PRACTITIONERS RULES

As in force at 11 July 2001

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 11 July 2001

LEGAL PRACTITIONERS RULES

Rules under the *Legal Practitioners Act*

Part 1 Preliminary

1 Citation

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

2 Commencement

These Rules shall come into operation on the commencement of the *Legal Practitioners Amendment Act 1993*.

Part 2 Roll of Legal Practitioners

3 Roll of Legal Practitioners

- (1) The Registrar shall cause to be kept a roll, to be known as the Roll of Legal Practitioners of the Supreme Court of the Northern Territory, on which the Registrar shall enter:
 - (a) the name of each person admitted to practise as a legal practitioner of the Court; and
 - (b) the date on which the entry is made.
- (2) Where a person who is admitted to practise as a legal practitioner of the Court satisfies the Registrar that he or she intends to practise in the Territory exclusively as a barrister and independently of another legal practitioner, the Registrar shall enter, in relation to the name of that person on the Roll of Legal Practitioners, a notation that he or she is to practise as Counsel.
- (3) A person may apply in writing to the Registrar for the removal of a notation entered on the Roll of Practitioners in relation to that person under subrule (2) and the Registrar shall, as soon as is practicable after receiving the application, remove the notation from the Roll.

4 Practitioners to take oath or affirmation

- (1) A person shall, before being admitted to practise as a legal practitioner of the Court, take or make before the Court an oath or affirmation in accordance with the form in Schedule 1.
- (2) Where a person applies to be admitted to practise as a legal practitioner of the Court under the *Mutual Recognition Act 1992* of the Commonwealth and elects not to appear in person, that person shall take or make before the principal registrar of the Supreme Court of a State or of a Territory or before any other officer of that Court as may be designated by the Admission Board, an oath or affirmation in accordance with the form in Schedule 1.
- (3) If a person applies to be admitted to practise as a legal practitioner of the Court under the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth and elects not to appear in person, that person must take or make an oath or affirmation in accordance with the form in Schedule 1 before the Registrar or before an officer of the High Court of New Zealand designated by the Admission Board.
- (4) If a person takes or makes an oath or affirmation in accordance with subrule (2) or (3), the signature on the form in Schedule 2 of the officer before whom the oath or affirmation was taken or made is sufficient proof that the person has complied with the subrule.

5 Practitioners to sign roll

- (1) A person whose name is entered on the Roll of Legal Practitioners shall sign the Roll.
- (2) Where a person elects not to appear in person in accordance with rule 4, the person shall, at the time of taking the oath or making an affirmation, sign a proforma for insertion in the Roll in accordance with the form in Schedule 2.

6 Removal of name from roll

Where the Court makes an order under section 52(2)(d) of the Act, the Registrar shall, as soon as practicable thereafter, remove the name of the legal practitioner from the Roll of Legal Practitioners.

Part 3 Admission of legal practitioners

Division 1 Application for admission

7 Application

- (1) A person may apply to the Court to be admitted to practise as a legal practitioner of the Court.
- (2) An application under subrule (1) shall be by originating motion and accompanied by such affidavits and other documentation as are specified in these Rules or as are directed by the Court.

8 Consideration of application by Court

Where the Court, on considering an application made under rule 7, is satisfied that the applicant:

- (a) is of good fame and character and a fit and proper person to be admitted to practise as a legal practitioner of the Court;
- (b) has completed the academic requirements for admission as required by these Rules or as directed under these Rules;
- (c) has complied with the practical requirements for admission as required by these Rules or as directed under these Rules; and
- (d) has otherwise complied with these Rules,

the Court may admit the applicant to practise as a legal practitioner of the Court and direct the Registrar to enter the applicant's name on the Roll of Legal Practitioners.

Division 2 Admission of Australian practitioners

9 Application by person who has obtained qualifications and experience in Australia

- (1) An application by a person under rule 7 for admission to practise as a legal practitioner of the Court who has qualifications and experience obtained in Australia shall be accompanied by an affidavit that the applicant:
 - (a) is of good fame and character and a fit and proper person to be admitted to practise as a legal practitioner of the Court;
 - (b) has not, at any time, been struck off the Roll of legal practitioners in a State or Territory of the Commonwealth; and

- (c) has not been charged with a criminal offence or the outcome of any such charge is disclosed.
- (2) An affidavit under subrule (1) shall be accompanied by evidence of the educational qualifications and practical experience of the applicant.

10 Academic qualifications of local applicants

For the purposes of rule 8, the academic requirements for admission of a person who has obtained qualifications and experience in Australia are:

- (a) completion of a degree of Bachelor of Laws at the Northern Territory University or another tertiary academic course in Australia, whether or not leading to a degree of Bachelor of Laws, which includes not less than 3 years full-time study of law (or equivalent) at an Australian tertiary institution which is recognised in at least one State or Territory of the Commonwealth as sufficient academic qualification for admission to practise as a legal practitioner; and
- (b) completion of courses of study, whether as part of a course referred to in paragraph (a) of this rule or otherwise, which are recognised in at least one State or Territory of the Commonwealth, for the purposes of meeting the academic qualifications to practise, as demonstrating understanding and competence in the following areas of law;
 - (i) Criminal Law and Procedure;
 - (ii) Torts;
 - (iii) Contracts;
 - (iv) Property both Real (including Torrens system land) and Personal;
 - (v) Equity (including Trusts);
 - (vi) Company Law;
 - (vii) Administrative Law;
 - (viii) Federal, State and Territory Constitutional Law;
 - (ix) Civil Procedure;
 - (x) Evidence; and

(xi) Professional Conduct and Trust Accounting.

11 Practical requirements for admission

(1) For the purposes of rule 8, the practical requirements for admission of a person who has obtained qualifications and experience in Australia are the successful completion of:

- (a) not less than one year's satisfactory service under articles of clerkship under these Rules;
- (b) not less than one year's satisfactory service under articles of clerkship in a State or another Territory of the Commonwealth, where the period of service is recognised by the Supreme Court of the State or of that Territory as satisfying the requirements for practical training and experience in legal skills for admission to practise as a legal practitioner of that Supreme Court;
- (c) a practical training course in legal skills recognised by the Court, or by the Supreme Court of a State or another Territory of the Commonwealth, as satisfying the requirements for practical training and experience in legal skills for admission to practise as a legal practitioner of the Court or that Supreme Court respectively;
- (d) a combination of:
 - (i) all or part of a practical training course in legal skills; and
 - (ii) a period of practical experience,

which combination is recognised by the Court, or by the Supreme Court of a State or another Territory of the Commonwealth, as satisfying the requirements for practical training and experience in legal skills for admission to practise as a legal practitioner of the Court or that Supreme Court respectively; or

- (e) a combination of any of the following:
 - (i) a period of satisfactory service under articles of clerkship under these Rules or in a State or another Territory of the Commonwealth;
 - (ii) a period of satisfactory service as an associate or clerk to a Territory Judge or a judge of a State or another Territory of the Commonwealth;
 - (iii) a period of practical experience,

which combination is recognised by the Court, or by the Supreme Court of a State or another Territory of the Commonwealth, as satisfying the requirements for practical training and experience in legal skills for admission to practise as a legal practitioner of the Court or that Supreme Court respectively.

- (2) A person shall be deemed not to have completed a course referred to in subrule (1)(b) or (c) unless the appropriate officer of the university or other institution by which the course was conducted has certified in writing that the person has completed the course.
- (3) Notwithstanding subrule (1), the Court may, if it is of the opinion that a person has had experience in the practice of law in Australia other than that specified in that subrule, grant the applicant such exemption from this rule as it considers proper in the circumstances.
- (4) For the purposes of subrule (3), and without limiting the generality of the subrule, experience in the practice of law includes having served as an associate or clerk to a Judge.
- (5) Where a person has rendered service as an associate or clerk to a Judge, the period which that person is required to serve under articles of clerkship is reduced by a period equal to one-half of the period of his or her service as an associate or clerk, or by 6 months, whichever is the lesser.
- (6) For the purposes of subrule (1), a reference to a practical training course in legal skills includes a reference to such a course forming part of a tertiary academic course in Australia referred to in rule 10.
- (7) For the purposes of subrule (1)(d)(ii), a period of practical experience may consist of or include a period of:
 - (a) satisfactory service under articles of clerkship under these Rules or in a State or another Territory of the Commonwealth; or
 - (b) satisfactory service as an associate or clerk to a Territory Judge or a judge of a State or another Territory of the Commonwealth.

Division 4 Admission of overseas practitioners

16 Application for directions by overseas person

- (1) A person who has qualifications obtained in a country (other than Australia or New Zealand) that are recognised as qualifying the

person to practise law in that country but who is not admitted to practise law in that country, may apply to the Court for directions as to the requirements the person must fulfil to satisfy the requirements of rule 8.

- (2) An application under subrule (1) shall be accompanied by:
 - (a) an affidavit of the applicant setting out the dates, nature and details of the applicant's academic qualifications; and
 - (b) evidence that the applicant has the academic qualifications referred to in his or her affidavit.
- (3) A person who has qualifications obtained in a country (other than Australia or New Zealand) that are recognised as qualifying the person to practise law in that country and who is admitted to practise law in that country may apply to the Court for directions as to the requirements the person must fulfil to satisfy the requirements of rule 8.
- (4) An application under subrule (3) shall be accompanied by:
 - (a) an affidavit of the applicant:
 - (i) giving details of the applicant's academic qualifications;
 - (ii) giving details of the applicant's practical experience, including the nature, range and character of the applicant's practise in law in the country in which he or she is admitted to practise;
 - (iii) giving details of the applicant's admission to practise law in the country in which he or she is admitted to practise;
 - (iv) stating that the applicant is currently entitled to practise law in the country in which he or she is admitted to practise, has not, at any time, been struck off the roll of practitioners in that country and is not presently subject to disciplinary enquiry or proceedings in that country; and
 - (v) stating whether the applicant has applied for admission to practise law in any other jurisdiction in Australia and, if so, the result of that application;
 - (b) evidence that the applicant has the academic qualifications referred to in his or her affidavit; and

- (c) evidence, other than from the applicant, that the applicant is of good fame and character and that the person is a fit and proper person to be admitted to practise as a legal practitioner of the Court.

17 Court to direct overseas applicant

- (1) On receiving an application under rule 16 the Court shall give directions to the applicant as to what requirements the applicant must fulfil to satisfy the requirements of rule 8.
- (2) Directions under subrule (1) shall ensure that, as far as is practicable, the applicant will, having complied with the directions, have the academic qualifications and the practical training and experience specified in rules 10(b) and 11.

18 Application after complying with directions

- (1) A person to whom directions under rule 17 are given may, on complying with those directions, apply under rule 7 for admission to practise as a legal practitioner of the Court.
- (2) An application under rule 7 for admission to practise as a legal practitioner of the Court by a person referred to in subrule (1) shall be accompanied by:
 - (a) an affidavit of the applicant:
 - (i) providing evidence of the applicant's compliance with the directions given under rule 17;
 - (ii) stating that the applicant has not been charged with any criminal offence or disclosing any such charge and its results; and
 - (iii) disclosing any matter bearing adversely on the applicant's fitness or propriety to be admitted to practise as a legal practitioner of the Court; and
 - (b) as applicable:
 - (i) an affidavit from the person with whom the applicant entered into articles of clerkship setting out details of the period of the articles of clerkship, the nature of the applicant's service or absences and a statement as to the applicant's fitness and propriety to be admitted to practise as a legal practitioner of the Court;

- (ii) a certificate of satisfactory completion of a practical training course in legal skills in an Australian jurisdiction; or
- (iii) an affidavit from the legal practitioner with whom the applicant has been employed setting out details of the period of employment, the nature of the applicant's service or absences and a statement as to the applicant's fitness and propriety to be admitted to practise as a legal practitioner of the Court.

19 Court to be satisfied with command of English language

Where a person, who has received a direction under rule 16 applies to the Court under rule 7, and that person's native language is not English, the Court shall satisfy itself that the person has a sufficient command of the English language to practise as a legal practitioner of the Court.

Division 5 Functions of Admission Board and Law Society

20 Admission board to report to Court on qualifications

The Admission Board shall, in respect of an application for admission to practise as a legal practitioner of the Court under rule 7, make a report in writing to the Court stating whether, in the opinion of the Board, the applicant is entitled to apply to be admitted to practise and shall, before the application is heard, provide a copy of the report to the applicant.

21 Law Society may object to admission

The Law Society may object to an application for admission to practise as a legal practitioner of the Court made under rule 7 and may be heard on the hearing of the application.

Part 4 Articles of clerkship

22 Entry into articles of clerkship

- (1) Subject to this Part, a person may enter into articles of clerkship with a person who is:
 - (a) a legal practitioner who holds an unrestricted practising certificate and is practising as a solicitor or barrister and solicitor;
 - (b) the Secretary, within the meaning of the Law Officers Act;

- (c) the Director of Public Prosecutions, within the meaning of the *Director of Public Prosecutions Act*;
 - (d) the Director of Legal Aid, within the meaning of the *Legal Aid Act*; or
 - (e) a person authorized under section 55E(4) of the *Judiciary Act 1903* of the Commonwealth to act in the name of the Australian Government Solicitor.
- (2) A person who has entered or is about to enter into articles of clerkship shall apply for the approval of the Admission Board in accordance with a form approved by the Admission Board.
- (3) Where an application under subrule (2) is made in accordance with this rule, the Admission Board shall not give its approval unless the Board is satisfied that:
- (a) the applicant has, or is entitled to, academic qualifications that would permit the person to apply for admission to practise as a legal practitioner of the Court under rule 7;
 - (b) the applicant is of good fame and character;
 - (c) the person with whom the applicant proposes to enter or has entered into articles of clerkship is a person referred to in subrule (1); and
 - (d) the articles of clerkship that the applicant proposes to enter or has entered into will provide the applicant with satisfactory experience.
- (4) Subject to subrule (5), the effective date of articles of clerkship is the date on which they were signed.
- (5) For the purposes of this section, where articles of clerkship are signed more than 90 days before the date on which the Admission Board gives its approval under this rule, the date of signing of the articles of clerkship shall be deemed to be the date 90 days before the giving of the approval by the Board.

23 Documents to accompany application for approval

- (1) An application under rule 22 shall be accompanied by:
- (a) a certificate or other document showing that the applicant satisfies the requirements of Part 3;
 - (b) certificates with respect to the fame and character of the applicant given by not less than 2 persons; and

- (c) a copy of the articles of clerkship or the proposed articles of clerkship.
- (2) A certificate referred to in subrule (1)(b) shall state:
 - (a) the name, address and occupation of the person giving the certificate;
 - (b) the period during which, and the circumstances in which, the person giving the certificate has known the applicant; and
 - (c) whether, in the opinion of that person, the applicant is a person of good fame and character.

24 Further evidence of good character

The Admission Board may, in any case in which it considers the circumstances so warrant, require a further certificate as to the fame and character of an applicant for the Board's approval under rule 22.

25 Period of articles

- (1) Subject to subrule (2), articles of clerkship shall be deemed to contain a provision requiring the person to undertake to render service in accordance with those articles for a period of 12 months from the effective date of those articles.
- (2) The Court may, on the application of a person, order that the period for which the person is required to render service in accordance with articles of clerkship shall be less than 12 months.
- (3) Where:
 - (a) articles of clerkship have been entered into; and
 - (b) the Admission Board refuses to give its approval under rule 22,

those articles shall have no further force or effect.

26 Articles to be lodged with admission board

A person who enters into articles of clerkship shall, not later than 14 days after the execution of the articles or such further time as the Admission Board allows, lodge the articles with the Secretary to the Admission Board.

27 Assignment of articles

- (1) Articles of clerkship may, by consent of the parties and with the approval of the Admission Board, be assigned to a person referred to in rule 22(1).
- (2) Where articles of clerkship are assigned, the person serving under the articles shall, not later than 14 days after the execution of the assignment or such further time as the Admission Board allows, lodge the assignment with the Secretary to the Admission Board.

28 New articles where legal practitioner dies, &c.

- (1) Where:
 - (a) the person to whom a person is articled as a clerk dies or ceases to practise either as a solicitor or barrister and solicitor; or
 - (b) articles of clerkship are discharged otherwise than by effluxion of time,

the person formerly articled may, with the approval of the Admission Board, enter into articles of clerkship with another person referred to in rule 22(1).

- (2) Articles of clerkship entered into in pursuance of subsection (1) shall contain a provision requiring the person to render service in accordance with those articles for a period equal to the unexpired period for which he or she was required to serve under the original articles.
- (3) A person who enters into articles of clerkship in pursuance of subrule (1) shall, not later than 14 days after the execution of the articles or such further time as the Admission Board allows, lodge the articles with the Secretary to the Admission Board.

29 Legal practitioners not to have more than 2 articled clerks

A legal practitioner, not being a person referred to in rule 22(1)(b), (c) or (e), shall not have more than 2 persons articled to him or her as clerks at the same time.

30 Certificate of completion of clerkship

- (1) A person to whom a person has been articled as a clerk shall, at his or her request, give to him or her a certificate stating whether, in the opinion of the person giving the certificate, the service of the person as an articled clerk was satisfactory throughout the period of his or her service.

- (2) Where, in a certificate given under subrule (1), a person states that the service of a person under articles of clerkship has not been satisfactory throughout the whole of the period mentioned in that subsection, he shall state in the certificate the reasons why the service has not been satisfactory throughout the whole of that period.

Part 5 Transitional

31 Transitional

- (1) Where, immediately before the commencement of these Rules, articles of clerkship entered into under Part 5 of the Act were in force, the articles shall, after that commencement, be subject to these Rules as if they had been entered into under these Rules.
- (2) An application for admission to practise as a legal practitioner made under the Act that has not been dealt with by the Court before the commencement of these Rules shall be deemed, on that commencement, to be an application made under these Rules and the application and the person to whom the application relates shall be subject to these Rules.
- (3) A person who considers that he or she has suffered special prejudice as a result of the commencement of these Rules may apply to the Court, or in relation to Part 4 may apply to the Admission Board, for relief of the special prejudice.
- (4) The Court, or the Admission Board, on receiving an application under subrule (3), may in its discretion make such orders in relation to the application as it thinks fit.

Schedule 1

rule 4(1) and (2)

I, A.B., do swear that I will well and honestly conduct myself in the practice of my profession as a legal practitioner of the Supreme Court of the Northern Territory according to the best of my knowledge and ability.

SO HELP ME GOD!

AFFIRMATION

I, A.B., solemnly and sincerely affirm and declare that I will well and honestly conduct myself in the practice of my profession as a legal practitioner of the Supreme Court of the Northern Territory according to the best of my knowledge and ability.

Schedule 2

rule 4(3)

ROLL OF LEGAL PRACTITIONERS OF THE SUPREME COURT OF THE NORTHERN TERRITORY

I, [full name], sign the Roll of Legal Practitioners of the Supreme Court of the Northern Territory.

Dated

SIGNATURE

DO NOT
DETACH

[Adhesive Label]

LABEL

This signature shall be of no effect until the order of the Admission Board has been made and the signature inserted in the Roll by the Registrar.

Oath/Affirmation administered and signing of the Roll witnessed

Dated

Signed: Principal Registrar/Designated Officer

[Stamp]

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 Rules (SL No. 38, 1993)

Notified	1 October 1993
Commenced	1 October 1993 (r 2, s 2 <i>Legal Practitioners Amendment Act</i> 1993 (Act No. 42, 1993) and <i>Gaz</i> S79, 1 October 1993)

Amendments of Legal Practitioners Rules (SL No. 42, 1993)

Notified	11 November 1993
Commenced	11 November 1993

Amendment of Legal Practitioners Rules (SL No. 36, 1996)

Notified	31 July 1996
Commenced	31 July 1996

Amendment of Legal Practitioners Rules (SL No. 7, 1999)

Notified	29 March 1999
Commenced	29 March 1999

Amendment of Legal Practitioners Rules (SL No. 36, 2001)

Notified	11 July 2001
Commenced	11 July 2001

3 LIST OF AMENDMENTS

r 3	amd No. 42, 1993, r 5
r 4	amd No. 36, 2001, r 1
r 10	amd No. 42, 1993, r 2
r 11	amd No. 42, 1993, r 5; No. 7, 1999
pt 3	
div 3 hdg	rep No. 36, 2001, r 2
rr 12 – 13	amd No. 42, 1993, r 5
	rep No. 36, 2001, r 2
rr 14 – 15	rep No. 36, 2001, r 2

ENDNOTES

rr 16 – 17	amd No. 42, 1993, r 5
r 22	amd No. 42, 1993, r 2; No. 36, 1996
r 23	amd No. 42, 1993, r 3
r 31	amd No. 42, 1993, r 4
sch 1	amd No. 42, 1993, r 5