

NORTHERN TERRITORY OF AUSTRALIA  
LEGAL PROFESSION (CONSEQUENTIAL AMENDMENTS) ACT 2007

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Act No. 7 of 2007

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. 7 of 2007

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## AN ACT

to amend various Acts consequent on the enactment of the *Legal Profession Act 2006*

[Assented to 17 May 2007]

[Second reading 22 February 2007]

**The Legislative Assembly of the Northern Territory enacts as follows:**

### PART 1 – PRELIMINARY MATTERS

#### 1. Short title

This Act may be cited as the *Legal Profession (Consequential Amendments) Act 2007*.

#### 2. Commencement

(1) Section 10 commences on the date fixed by the Administrator by *Gazette* notice.

(2) The remaining provisions of this Act commence on the day on which the Administrator's assent to this Act is declared.

**PART 2 – AMENDMENT OF COMPANIES (TRUSTEES AND PERSONAL REPRESENTATIVES) ACT**

**3. Act amended**

This Part amends the *Companies (Trustees and Personal Representatives) Act*.

**4. Amendment of section 38 (Legal practitioner may be nominated by testator)**

- (1) Section 38, heading

*omit*

**Legal practitioner**

*substitute*

**Law practice**

- (2) Section 38(1)

*omit*

legal practitioner or firm of legal practitioners

*substitute*

law practice

- (3) Section 38(1)

*omit*

legal practitioner or firm

*substitute*

law practice

- (4) Section 38(2) and (3)

*omit (all references)*

legal practitioner or firm of legal practitioners

*substitute*

law practice

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- (5) Section 38, at the end

*insert*

- (4) In this section:

"law practice", see the *Legal Profession Act*.

**PART 3 – AMENDMENT OF *INTERPRETATION ACT***

**5. Act amended**

This Part amends the *Interpretation Act*.

**6. Amendment of section 17 (Definitions)**

- (1) Section 17, definition "legal practitioner"

*omit*

- (2) Section 17

*insert (in alphabetical order)*

"lawyer" means an Australian lawyer as defined in section 5(a) of the *Legal Profession Act*;

"legal practitioner" means an Australian legal practitioner as defined in section 6(a) of the *Legal Profession Act*;

**PART 4 – AMENDMENT OF *MAGISTRATES ACT***

**7. Act amended**

This Part amends the *Magistrates Act*.

**8. Repeal and substitution of section 5**

Section 5

*repeal, substitute*

**5. Eligibility for appointment**

A person is eligible for appointment as a Magistrate if the person:

- (a) is a lawyer and has been for at least 5 years; or
- (b) is admitted to the legal profession, and has been for at least 5 years, in one of the following jurisdictions:

- (i) New Zealand;
  - (ii) Papua New Guinea;
  - (iii) England;
  - (iv) Scotland;
  - (v) Northern Ireland; or
- (c) has held a position of magistrate, or, in the opinion of the Minister, its equivalent, in a jurisdiction mentioned in paragraph (b) and has the approved academic qualifications for admission as a local lawyer under section 10 of the *Legal Profession Act*.

## **PART 5 – AMENDMENT OF *SUPREME COURT ACT***

### **9. Act amended**

This Part amends the *Supreme Court Act*.

### **10. Repeal and substitution of section 22**

Section 22

*repeal, substitute*

### **22. Exercise of jurisdiction relating to lawyers**

- (1) If the Rules so provide, the Full Court must exercise:
  - (a) the jurisdiction of the Court to hear and determine a proceeding under the *Legal Profession Act*; and
  - (b) the inherent jurisdiction of the Court to hear and determine a proceeding relating to the discipline of a lawyer.
- (2) If the proceeding involves a disputed question of fact, the Full Court may refer the question to a single Judge (who may be a member of the Full Court making the reference) to hear evidence and report his or her findings to the Full Court.
- (3) If the Full Court refers a question to a single Judge, the Full Court must review the evidence taken before the Judge and may exercise any one or more of the following powers:
  - (a) it may adopt the Judge's findings on the evidence with or without modification;

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- (b) it may set aside the Judge's findings on the evidence and make its own findings;
  - (c) it may refer a question back to the Judge with a direction to hear further evidence.
- (4) If an appeal from the Legal Practitioners Disciplinary Tribunal is heard by the Full Court:
- (a) the appeal is to be by way of rehearing; and
  - (b) the Full Court has power:
    - (i) to draw its own inferences from evidence taken before the Tribunal; and
    - (ii) to refer a question back to the Tribunal with a direction to take further evidence, to reconsider the Tribunal's findings in the light of the further evidence and to report back to the Full Court; and
    - (iii) to receive further evidence in a manner the Full Court directs.
- (5) Although the Rules provide for jurisdiction in matters of a particular class to be exercised by the Full Court:
- (a) the Full Court may, if it thinks a particular matter would be more appropriately dealt with by a single Judge, refer the matter for hearing and determination by a single Judge; and
  - (b) a single Judge may exercise the Court's jurisdiction:
    - (i) in any matter of practice or procedure; or
    - (ii) to grant interlocutory relief necessary or desirable in the interest of justice; or
    - (iii) to deal with any other incidental matter.
- (6) If the Full Court refers a particular matter for hearing and determination by a single Judge under subsection (5)(a), an appeal lies against the judgment of the single Judge to the Full Court.
- (7) This section does not affect powers the Full Court has apart from this section in relation to evidence.

**11. Amendment of section 32 (Appointment of Judges)**

Section 32(1)(b) and (2)(b)

*omit, substitute*

(b) is a lawyer who has been admitted to the legal profession for at least 10 years;

**12. Amendment of section 41A (Appointment of Master)**

Section 41A(b)

*omit, substitute*

(b) is a lawyer who has been admitted to the legal profession for at least 5 years;

**13. Amendment of section 41H (Authorization to act in office of Master)**

Section 41H(1)(d)

*omit, substitute*

(d) is a lawyer;

**14. Amendment of section 48 (Appointment of Registrars)**

Section 48(1) and (2)

*omit*

as a legal practitioner of the Court

*substitute*

to the legal profession

**15. Amendment of section 75 (Appearance)**

Section 75

*omit*

having the right to practise in the Court



**PART 6 – AMENDMENT OF OTHER LAWS**

**16. Amendment of other laws**

- (1) This section amends the laws specified in the Schedule.
- (2) The Schedule has effect.

**PART 7 – EXPIRY OF ACT**

**17. Expiry of Act**

This Act expires on the day after it commences.

**SCHEDULE**

Section 16

**AMENDMENT OF OTHER LAWS**

**PART 1 – AMENDMENT OF ACTS**

Provision	Amendment	
	omit	substitute
<i>Administration and Probate Act</i>		
Section 6(1), definition "professional personal representative", paragraph (c)	whole paragraph	(c) a legal practitioner;
Section 110	solicitor	legal practitioner
<i>Adoption of Children Act</i>		
Section 23(1)(a)	whole paragraph	(a) a chairperson who is a lawyer; and
<i>Agents Licensing Act</i>		
Section 5(1), definition "legal practitioner"	whole definition	
Section 7(1)(b) and (8)(a)	legal practitioner	lawyer
<i>Associations Act</i>		
Section 100(3)(d)	solicitor, or a solicitor and counsel,	legal practitioner
<i>Australian Crime Commission (Northern Territory) Act</i>		
Section 27, heading	<b>counsel</b>	<b>legal practitioners</b>
Section 27(2)	barrister	legal practitioner

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***Building Act***

Section 12A(3)	a legal practitioner who is enrolled as a legal practitioner (however described) of the High Court, the Supreme Court, the Supreme Court of a State or another Territory of the Commonwealth and has been so enrolled	a lawyer who has been admitted to the legal profession
Section 12A(4)	legal practitioners	lawyers
Section 34J(1)(a)	legal practitioner	lawyer
Section 34J(3)(a)	a legal practitioner who is enrolled as a legal practitioner (however described) of the High Court, the Supreme Court, the Supreme Court of a State or another Territory of the Commonwealth and has been so enrolled	a lawyer who has been admitted to the legal profession

***Business Tenancies (Fair Dealings) Act***

Section 89(4)	whole subsection	(4) A person conducting an inquiry must be a lawyer who has been admitted to the legal profession for at least 5 years.
Section 111(1)	within the meaning of the <i>Legal Practitioners Act</i>	

***Classification of Publications, Films and Computer Games Act***

Section 8(1)(c)	legal practitioner	lawyer
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***Commercial Arbitration Act***

Section 20(5)	admitted	entitled
	<i>Legal Practitioners Act</i>	<i>Legal Profession Act</i>

***Co-operatives Act***

Section 341(1)(a)	solicitors	legal practitioners
Section 388(2)(a)	solicitor	legal practitioner
Section 398	(1) In	In
Section 398, definition "involved person", paragraph (b)	solicitor	legal practitioner
Schedule 4, clause 7(2)(q)	solicitor	legal practitioner

***Criminal Code***

Section 236(c)	legal practitioner	lawyer
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***Crown Proceedings Act***

Section 4, definition "practitioner"	whole definition	
Sections 13(b) and 19(1) and (2)	practitioner (all references)	legal practitioner

***Director of Public Prosecutions Act***

Section 4(1)(b)	whole paragraph	(b) been a lawyer for at least 10 years;
Section 4(4)	<i>Legal Practitioners Act</i>	<i>Legal Profession Act</i>

***First Home Owner Grant Act***

Section 47(1)	barrister or solicitor	legal practitioner
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***Gaming Machine Act***

Section 183(3)                      legal representative                      legal practitioner

***Health and Community  
Services Complaints Act***

Section 78(3)(a)                      legal practitioner                      lawyer

***Health Practitioners Act***

Section 63(2)(a) and (b)                      legal practitioner                      lawyer  
and Schedule 5,  
clauses 3(4) and (5)  
and 4(2)(a) and (b)

***Inquiries Act***

Section 7, heading                      **counsel**                      **legal practitioner**

Section 7                      counsel, attorney                      a legal practitioner

***Juries Act***

Schedule 7                      a practising legal  
practitioner  
(all references)                      a legal practitioner

the articled clerk                      an articled clerk or  
graduate clerk

***Justices Act***

Section 57A(1)(b)                      barrister or solicitor                      lawyer

***Land Title Act***

Section 23(1)(e)                      enrolled in the Territory  
or elsewhere

Section 195(2)                      *Legal Practitioners Act*                      *Legal Profession Act*

Schedule 1                      within the meaning of  
the *Legal Practitioners  
Act*

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***Law of Property Act***

Section 4, definition "Law Society"	constituted by section 7 of the <i>Legal Practitioners Act</i>	established by section 635 of the <i>Legal Profession Act</i>
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***Law Officers Act***

Section 6(d)	he	he or she
Section 6(e)	his	his or her
	Roll of Legal Practitioners kept under the <i>Legal Practitioners Act</i>	local roll kept under the <i>Legal Profession Act</i>
	he	he or she
Section 6(g)	to him	
Section 8(4)	him	the Secretary
Section 8(6)	to him	
Section 8(8)	his (all references)	his or her
	he	he or she
	<i>Legal Practitioners Act</i>	<i>Legal Profession Act</i>
Section 8(9)	him (all references)	him or her
	his (all references)	his or her
	he	he or she
Section 13(7)	he	he or she
Section 13(8)	his	his or her
	him	the Solicitor-General
Section 13(9)	his	his or her
	he	he or she

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Section 14(a)	him	the Solicitor-General
Section 14(d)	his (all references)	his or her
	he	he or she
	<i>Legal Practitioners Act</i>	<i>Legal Profession Act</i>
Section 15(a) and (c)	his (all references)	his or her

***Legal Aid Act***

Section 4(1)		
definition "current practising certificate"	whole definition	
definition "Law Society"	constituted by section 7 of the <i>Legal Practitioners Act</i>	established by section 635 of the <i>Legal Profession Act</i>
definition "officer"	and holding a current practising certificate under the <i>Legal Practitioners Act</i>	who is a legal practitioner
definition "private legal practitioner"	a person who is practising as a legal practitioner	a legal practitioner practising
Sections 18(3), 19(2), 20 and 30(12)(b)(i)	<i>Legal Practitioners Act</i>	<i>Legal Profession Act</i>
Section 48(b)	whole paragraph	(b) a lawyer who has been admitted to the legal profession for at least 5 years.

Section 55(3A)(b)	a proceeding under Part VI of the <i>Legal Practitioners Act</i>	a proceeding under Chapter 4 of the <i>Legal Profession Act</i>
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Section 65	whole section	
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***Licensed Surveyors Act***

Section 40(2)(a)	legal practitioner of not less than 7 years	lawyer who has been admitted to the legal profession for at least
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	standing	7 years
<b><i>Local Government Act</i></b>		
Section 92(2)(b)	solicitor	lawyer
<b><i>Marine Act</i></b>		
Section 118(4)	he is a legal practitioner	the person is a lawyer
<b><i>Meat Industries Act</i></b>		
Section 64(1)(c)	counsel	legal practitioner
<b><i>Mining Act</i></b>		
Section 58(4)	counsel	a legal practitioner
<b><i>Northern Territory Licensing Commission Act</i></b>		
Sections 6(4) and 9(2)	enrolled as a legal practitioner of the High Court of Australia or the Supreme Court of a State or Territory of the Commonwealth and have been so enrolled for not less than	a lawyer who has been admitted to the legal profession for at least
<b><i>Oaths Act</i></b>		
Section 17(1)(c)	whole paragraph	(c) a legal practitioner;
<b><i>Pastoral Land Act</i></b>		
Section 27(1)	barrister	legal practitioner
Section 93(2)(a)(i)	whole subparagraph	(i) is a lawyer who has been admitted to the legal profession for at least 10 years; and
<b><i>Police Administration Act</i></b>		
Section 94(5)	whole subsection	(5) The person appointed to be



Chairman must:

- (a) be a lawyer who has been admitted to the legal profession for at least 5 years; or
- (b) have other qualifications or experience which, in the opinion of the Minister, are suitable for the office of Chairman.

Section 101(2)

barrister

legal practitioner

*Prisoners (Correctional Services) Act*

Section 51(3)

*Legal Practitioners Act*

*Legal Profession Act*

*Public Sector Employment and Management Act*

Section 57(4)

whole subsection

(4) The person appointed to be Chairperson must:

- (a) be a lawyer who has been admitted to the legal profession for at least 5 years; or
- (b) have other qualifications or experience which, in the opinion of the Minister, are suitable for the office of Chairperson.

Section 58(9)

legal practitioner  
(all references)

lawyer

***Racing and Betting Act***

Section 145G(2)(c)	legal practitioner	lawyer
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***Residential Tenancies Act***

Section 129(4)	has been enrolled as a legal practitioner of the High Court, or of the Supreme Court of a State or Territory of the Commonwealth, for not less than	is a lawyer who has been admitted to the legal profession for at least
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Section 148(1)	within the meaning of the <i>Legal Practitioners Act</i>	, a graduate clerk
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Section 148(2)	within the meaning of the <i>Legal Practitioners Act</i>	
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Section 149(b)	clerk	clerk or graduate clerk
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***Sale of Goods (Vienna Convention) Act***

Section 7(1)	(1) A document  legal practitioner	A document  lawyer
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Section 7(2)	whole subsection	
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***Teacher Registration (Northern Territory) Act***

Section 60(2)(a)	enrolled (and who has been so enrolled for not less than 5 years) as a legal practitioner of the High Court or of the Supreme Court of a State or Territory of the Commonwealth	a lawyer who has been admitted to the legal profession for at least 5 years
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***Terrorism (Emergency Powers) Act***

Section 21A, definition "lawyer"	whole definition	"lawyer" means an Australian legal practitioner as defined in section 6(a) of the <i>Legal Profession Act</i> ;
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***Totalisator Licensing and Regulation Act***

Section 76	constituted by section 7 of the <i>Legal Practitioners Act</i>	established by section 635 of the <i>Legal Profession Act</i>
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***Trustee Act***

Section 17, heading	<b>solicitor</b>	<b>legal practitioner</b>
Section 17(1) to (4)	solicitor (all references)	legal practitioner

***Valuation of Land Act***

Section 20B(2)(c)	legal practitioner	lawyer
Section 20B(3)	legal practitioners	lawyers
Section 28	barrister or solicitor	legal practitioner

***Wills Act***

Section 50(4)(a)(ii)	legal practitioner	lawyer
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**PART 2 – AMENDMENT OF SUBORDINATE LEGISLATION**

Provision	Amendment	
	omit	substitute
<b><i>Adoption of Children Regulations</i></b>		
Regulation 6(2)(a)	barrister or solicitor (all references)	lawyer
<b><i>Agents Licensing Regulations</i></b>		
Regulation 17(1)(c)(iv)	barrister or solicitor	legal practitioner
Regulation 24A(d)	constituted under the <i>Legal Practitioners Act</i>	established by the <i>Legal Profession Act</i>
<b><i>Bail Regulations</i></b>		
Regulations 5(3) and 6	solicitor	legal practitioner
<b><i>Charles Darwin University (Student Conduct) By-laws</i></b>		
By-law 11(3)(a)	person whose name is entered on the Roll of Legal Practitioners of the Supreme Court of the Northern Territory	lawyer
<b><i>Coroners Regulations</i></b>		
Regulation 9	legal representative	legal practitioner
<b><i>Local Court Rules</i></b>		
Rule 1.09, definition "legal practitioner", paragraph (a)	whole paragraph	(a) an Australian legal practitioner as defined in section 6(a) of the <i>Legal Profession Act</i> ;

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Rule 1.15(c) and Schedule 1, Form 37A	clerk	clerk or graduate clerk
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***Mining Regulations***

Regulation 37	his attorney or solicitor	the plaintiff's legal practitioner
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Regulation 38(1)(a)	his solicitor or attorney	the plaintiff's legal practitioner
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***Motor Accidents  
(Compensation) Appeal  
Tribunal Rules***

Regulations 5(2) and 6(2)	solicitor	legal practitioner
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Forms 2, 3 and 4	Solicitor	Legal practitioner
	solicitor	legal practitioner

***Sheriff Regulations***

Regulation 6	his solicitor	that party's legal practitioner
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Regulation 8(1)	his solicitor	that person's legal practitioner
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Regulation 10(1)	his solicitor	that party's legal practitioner
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Regulation 16	his solicitor	the execution creditor's legal practitioner
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Regulation 19, heading	<b>solicitor</b>	<b>legal practitioner</b>
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Regulations 19 and 20	solicitor (all references)	legal practitioner
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Regulation 20	his	that person's
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***Small Claims Rules***

Rule 1.06, definition "legal practitioner", paragraph (a)	whole paragraph	(a) an Australian legal practitioner as defined in section 6(a) of the <i>Legal Profession Act</i> ;
Rule 4.07(c)	clerk	clerk or graduate clerk
Schedule 1, Forms 18A and 20A	legal representative (all references)	legal practitioner

***Supreme Court Rules***

Rule 1.09(1)		
definition "legal practitioner", paragraph (a)	whole paragraph	(a) an Australian legal practitioner as defined in section 6(a) of the <i>Legal Profession Act</i> ;
definition "Solicitor"	whole definition	"solicitor" means an Australian legal practitioner as defined in section 6(a) of the <i>Legal Profession Act</i> , other than a barrister as defined in that Act;
Rule 63.56	Part X of the <i>Legal Practitioners Act</i>	Part 3.3 of the <i>Legal Profession Act</i>

***Totalisator Licensing and Regulation (Arbitration) Regulations***

Regulation 2, definition "President of the Law Society"	constituted by section 7 of the <i>Legal Practitioners Act</i>	established by section 635 of the <i>Legal Profession Act</i>
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***Unit Titles Regulations***

Schedule 4	a legal practitioner within the meaning of the <i>Legal Practitioners Act</i> (all references)	a legal practitioner
Schedule 5, item 1(3)(a)	whole item	(a) is a legal practitioner; and

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