

Serial 89
Legal Profession (Consequential Amendments) Bill 2007
Mr Stirling

**A BILL
for
AN ACT**

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

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

Act No. [] of 2007

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2007

AN ACT

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

[Assented to [] 2007]
[Second reading [] 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

Legal Profession (Consequential Amendments) Act 2007

- (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	counsel	legal practitioners
Section 27(2)	barrister	legal practitioner

Legal Profession (Consequential Amendments) Act 2007

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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Legal Profession (Consequential Amendments) Act 2007

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*

Legal Profession (Consequential Amendments) Act 2007

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	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
Section 14(a)	him	the Solicitor-General

Legal Profession (Consequential Amendments) Act 2007

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>
Section 65	whole section	

Licensed Surveyors Act

Section 40(2)(a)	legal practitioner of not less than 7 years standing	lawyer who has been admitted to the legal profession for at least 7 years
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Legal Profession (Consequential Amendments) Act 2007

Local Government Act

Section 92(2)(b) solicitor lawyer

Marine Act

Section 118(4) he is a legal practitioner the person is a lawyer

Meat Industries Act

Section 64(1)(c) counsel legal practitioner

Mining Act

Section 58(4) counsel a legal practitioner

***Northern Territory
Licensing Commission
Act***

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

Oaths Act

Section 17(1)(c) whole paragraph (c) a legal practitioner;

Pastoral Land Act

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

***Police Administration
Act***

whole subsection (5) The person appointed to be Chairman must:

Legal Profession (Consequential Amendments) Act 2007

		(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
<i>Prisoners (Correctional Services) Act</i>		
Section 51(3)	<i>Legal Practitioners Act</i>	<i>Legal Profession Act</i>
<i>Public Sector Employment and Management Act</i>		
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

Legal Profession (Consequential Amendments) Act 2007

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	solicitor	legal practitioner
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
<i>Adoption of Children Regulations</i>		
Regulation 6(2)(a)	barrister or solicitor (all references)	lawyer
<i>Agents Licensing Regulations</i>		
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>
<i>Bail Regulations</i>		
Regulations 5(3) and 6	solicitor	legal practitioner
<i>Charles Darwin University (Student Conduct) By-laws</i>		
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
<i>Coroners Regulations</i>		
Regulation 9	legal representative	legal practitioner
<i>Local Court Rules</i>		
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> ;

Legal Profession (Consequential Amendments) Act 2007

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	solicitor	legal practitioner
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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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Legal Profession (Consequential Amendments) Act 2007

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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Legal Profession (Consequential Amendments) Act 2007

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
