

LEGAL PROFESSION ACT 1987—RULES

(Legal Services Tribunal Rules 1995)

NEW SOUTH WALES



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Citation

1. These Rules may be cited as the Legal Services Tribunal Rules 1995.

Commencement

2. These Rules commence on 17th March 1995.

Rule-making power

3. (1) These Rules governing the practice and procedure of the Tribunal are made under section 166 of the Act by a rule committee of the Tribunal.

(2) Subject to these Rules and to Part 10 of the Act, the Tribunal may regulate its own practice and procedure.

Definitions

4. (1) In these Rules:

“**Registrar**” means the Registrar of the Tribunal, and includes any person for the time being performing the duties of the Registrar;

“**the Act**” means the Legal Profession Act 1987;

“**Tribunal**” means the Legal Services Tribunal constituted under Part 10 of the Act.

(2) In these Rules, a reference to a form is a reference to a form in the Schedule of these Rules.

Seal of Tribunal

5. The seal of the Tribunal:

(a) is to contain the words “Legal Services Tribunal”; and

(b) is to be kept in the custody of the Registrar.

Exemption from Rules

6. The Tribunal may, at any time, and from time to time exempt a person from complying with any of the requirements set out in these Rules upon such terms and conditions (if any) as it thinks fit.

Time

7. (1) If no time is fixed by these Rules for the doing of any act in or in connection with an application made to, or a hearing conducted by, the Tribunal, the Tribunal may, by order, fix the time within which the act is to be done.

(2) The Tribunal may at any time and from time to time, by order and on such terms and conditions (if any) as it thinks fit, vary any time fixed by these Rules or by an order of the Tribunal for the doing of any act.

Commencement of hearings etc—forms and service

8. (1) An application to the Tribunal or proceedings in the Tribunal (being an application made, or a proceeding in the Tribunal with respect to a complaint against a legal practitioner under the section of the Act referred to in Column 1 of the Table to this Rule) shall be made or commenced by filing with the Registrar a document in or to the effect of the form described in Column 2 opposite the reference to that section.

(2) The person making such an application or commencing such a proceeding shall serve the relevant document on the person or persons (if any) referred to in Column 3.

(3) If it is impracticable for any reason to serve the relevant document, as prescribed, the Tribunal may order that, instead of serving the document, as prescribed, such steps as are specified in the order be taken to bring the document to the notice of the person required to be served.

Table

Column 1 (section of Act)	Column 2 (form number)	Column 3 (person to be served)
sections 48I (2) or 48J (2)	1	the legal practitioner (if any) and the specified person
section 48I (3) or 48J (3)	2	the person against whom the order was made or the appropriate Council

section 48K	3	the appropriate Council
section 167 (1)	4	the legal practitioner against whom the complaint has been made
Application for orders/directions	7	all other parties and persons entitled to be heard

Address for service

9. The following persons are required, before appearing before the Tribunal, a member of the Tribunal or the Registrar to file with the Registrar a notice (in or to the effect of Form 5) of an address for service of documents:

- (a) the legal practitioner against whom the complaint has been made;
- (b) the appropriate Council;
- (c) the Legal Services Commissioner;
- (d) the Attorney General;
- (e) the complainant;
- (f) any person to whom leave is granted by the Tribunal under section 169 (3) of the Act to appear at the hearing.

Reply

10. The legal practitioner in respect of whom a complaint has been made shall file a reply to the allegations in the Information setting out the facts, matters and circumstances on which he/she seeks to rely in or to the effect of form 6 within 14 days after service of the Information or within such further time as the Registrar allows provided that if the legal practitioner neglects or fails to file a reply the Tribunal may hear and determine the complaint.

Party failing to appear at hearing

11. If any person who is entitled to appear at the hearing of an application or into a complaint fails to appear at the hearing, the Tribunal may hear and determine the application or complaint in the absence of that person.

Amendment

12. The Tribunal may at any time and from time to time, on such terms and conditions (if any) as it thinks fit, order that any document in relation to an application made to the Tribunal or a hearing conducted by the Tribunal into a complaint be amended or that any party have leave to amend any such document.

Directions

13. The Tribunal may of its own motion or upon application by any person entitled to appear, at any time and from time to time, give such directions and make such orders in relation to any application or hearing as it thinks fit (whether or not inconsistent with these Rules). Any such application by a person entitled to appear shall be in or to the effect of Form 7.

Adjournment

14. The Tribunal may at any time and from time to time adjourn the hearing of an application or into a complaint upon such terms and conditions (if any) as it thinks fit.

Summons

15. (1) A Summons under section 171 of the Act is to be in or to the effect of Form 8.

(2) A Summons under Section 171 of the Act shall not require the person named to attend or produce any document or thing on any day on which his attendance or production by him is required unless a sum sufficient to meet the reasonable expenses of the person named and complying with the Summons in relation to that day is paid or tendered to him at the time of service of the Summons or not later than a reasonable time before that day.

Notice to Attend and Produce Documents

16. (1) A Notice under Section 171A of the Act is to be in or to the effect of Form 9.

(2) A Notice under Section 171A of the Act shall not require the person named to attend or produce any document or thing on any day on which his attendance or production by him is required unless a sum sufficient to meet the reasonable expenses of the person named and complying with the Notice in relation to that day is paid or tendered to him at the time of service of the Notice or not later than a reasonable time before that day.

Order for filing

17. An order made by the Tribunal for filing in the Supreme Court pursuant to s. 171H is to be in or to the effect of Form 10.

Notification of order

18. The Registrar shall, after the Tribunal has made an order under any of sections 48I, 48J, 48K, 171C, 171D and 171E of the Act, serve a copy of the order and the reasons for it on any party who was not present or represented when the order was made such service to be either personal or by prepaid ordinary post addressed to that person at the address stated in that person's address for service or otherwise as directed by the Tribunal.

Power of members and Registrar

19. (1) The powers of the Tribunal under Rule 13 may be exercised by a member of the Tribunal or by the Registrar.

(2) The Registrar may exercise the powers of the Tribunal under rule 13 in respect of any matter referred to the Registrar by the Tribunal.

Referring matter to the Tribunal

20. A member of the Tribunal or the Registrar may refer any matter in relation to an application or a hearing to the Tribunal.

Review

21. The Tribunal may review any order made or direction given under these rules by a member of the Tribunal or by the Registrar and make such other direction or order as it thinks fit.

SCHEDULE—FORMS

FORM 1

(Rule 8)

Legal Services Tribunal
(Heading and number)

Application for Order [s 48I (2) or s 48J (2)]

The (appropriate Council) applies to the Legal Services Tribunal for an order
[Here set out the order sought]

upon the grounds that (state in terms of s 48I (2) (a) or (b) or 48J (2) (a) or (b) of the
Legal Profession Act 1987).

This application will be listed for mention before the Registrar/for hearing by the
Tribunal* at (address) at (time) on (date).

Date:

(*Delete whichever is inapplicable)

Applicant (name of Council)
Address
Telephone Number
Facsimile Number
Document Exchange Number

FORM 1 (b)

(Rule 8)

Legal Services Tribunal
(Heading and number)

Application for Order [s 48I (2) (b)]

The (appropriate Council) applies to the Legal Services Tribunal for an order prohibiting
any barrister or solicitor from employing or paying (name of person) in connection with
the barrister or solicitor's practice upon the ground that the person has been guilty of
conduct which, if the person was a barrister or a solicitor would have constituted
unsatisfactory professional conduct or professional misconduct within the meaning of
Part 10.

(state in terms of s 48I (2) (a) or (b) or 48J (2) (a) or (b) of the Legal Profession Act
1987).

This application will be listed for mention before the Registrar/for hearing by the
Tribunal* at (address) at (time) on (date).

Date:

(Delete whichever is inapplicable)

Applicant (name of Commissioner)
Address
Telephone Number
Facsimile Number
Document Exchange Number

FORM 2

(Rule 8)

Legal Services Tribunal
(Heading and number)

Application FOR REVOCATION [s 48I (3) or s 48J (3)]

The (appropriate Council/name of person against whom the order was made*) applies to the Legal Services Tribunal for an order that the order made on (date) by the Tribunal under section 48I or 48J of the Legal Profession Act 1987 be revoked upon the following grounds.

This application will be listed for mention before the Registrar/for hearing by the Tribunal* at (address) at (time) on (date).

Date:

(Delete whichever is inapplicable) Applicant (name of Council/name of person*)
Address
Telephone Number
Facsimile Number
Document Exchange Number

FORM 3

(Rule 8)

Legal Services Tribunal
(Heading and number)

Application for approval [s 48K (2) (c)]

(Name of applicant) applies to the Legal Services Tribunal under section 48K (2) (c) of the Legal Profession Act 1987 for an order approving the applicant as a person to whom section 48K (1) of the Act does not apply upon the following grounds.

This application will be listed for mention before the Registrar/for hearing by the Tribunal* at (address) at (time) on (date).

Date:

(*Delete whichever is inapplicable) Applicant
Address
Telephone Number
Facsimile Number
Document Exchange Number

FORM 4

(Rule 8)

Legal Services Tribunal
(Heading and number)

Information [s 167 (1)]

The (appropriate Council/Legal Services Commissioner*) informs the Legal Services Tribunal of a complaint against (name of legal practitioner against whom the complaint has been made).

The grounds on which the complaint is made are as follows:

Further and better particulars of the facts matters and circumstances on which the (appropriate Council/Legal Services Commissioner*) relies are annexed hereto.

(If a complainant requests the making of an order under s 139 (1) of that Act, set out particulars of the loss and of the compensation order requested.)

The (appropriate Council/Legal Services Commissioner*) requests the making of the following orders:

This complaint will be listed for mention before the Registrar/for hearing by the Tribunal* at (address) at (time) on (date).

To (name and address of legal practitioner against whom the complaint has been made):

Before any attendance at that time, you must file a notice of address for service of any documents on you.

Orders may be made against you in your absence.

Date:

(Appropriate Council/Legal Services Commissioner*)

(*Delete whichever is inapplicable)

Address
Telephone Number
Facsimile Number
Document Exchange Number

FORM 5

(Rule 9)

Legal Services Tribunal
(Heading and number)

Notice of address for service

The address for service of documents on (name of person filing notice) is (address).

(Signature of person giving notice of address for service)

Address

Telephone Number

Facsimile Number

Document Exchange Number

Date:

FORM 6

(Rule 10)

Legal Services Tribunal
(Heading and number)

Reply

(Name of legal practitioner) replies to the allegations in the information as follows:

- | | | | |
|----|---|----------------|---|
| 1. | } | as appropriate | Here set out the facts, matters and |
| 2. | | | circumstances on which the legal practitioner |
| 3. | | | seeks to rely in respect of each allegation |

Solicitor for (name of legal practitioner)

.....
Signature

Date:

Address

Telephone Number

Facsimile Number

Document Exchange Number

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FORM 7

(Rule 13)

Legal Services Tribunal
(Heading and number)

Application for Orders/Directions

The (appropriate Council/Commissioner/Legal Practitioner*) applies to the Legal Services Tribunal for the following orders/directions (insert nature of orders/directions sought). Upon the following grounds:

(*Delete whichever is inapplicable)

This application will be listed for mention before the Registrar/for hearing by the Tribunal at (address) at (time) on (date).

Date:

Applicant
Address
Telephone Number
Facsimile Number
Document Exchange Number

FORM 8

(Rule 15)

Legal Services Tribunal
(Heading and number)

Summons To Attend (s. 171)

To: (name and address)

You are required to appear before the Legal Services Tribunal on (date) at (time) at (address) to give evidence (and/or to produce the documents specified below):

DOCUMENTS:

This summons is served under section 171 of the Legal Profession Act 1987 which provides that:

A person served with a summons to appear at a hearing to give evidence must not, without reasonable excuse:

- (a) fail to attend as required by the summons; or
- (b) fail to attend from day to day unless excused, or released from further attendance, by a member of the Tribunal.

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You need not attend or produce any document or thing on any day unless reasonable expenses have been paid or tendered to you.

Maximum Penalty: 20 penalty units. (Insert monetary amount)

Date:

(signature)

Member or Registrar of the Legal Services Tribunal

Issued at the request of

Name

Address

Telephone Number

Facsimile Number

Document Exchange Number

FORM 9

(Rule 16)

Legal Services Tribunal
(Heading and number)

Notice to attend and to produce documents (s. 171A)

To: (name and address)

You are required to attend before (a member of the Legal Services Tribunal or the Registrar of the Tribunal or a person authorised by the Tribunal) on (date) at (time) at (address) and to produce at that time and place the documents specified below:

Instead of attending at the time specified above you may produce this notice and the documents specified to the Registrar at the place specified above so that they are received before the date on which you are required to attend.

This notice is served under section 171A of the Legal Profession Act 1987 which provides that:

A person must not, without reasonable excuse, refuse or fail to comply with a notice served on the person under this section.

Maximum Penalty: 20 penalty units. (Insert monetary amount)

You need not attend or produce any document on any day unless reasonable expenses have been paid or tendered to you.

Date:

(signature)

Member or Registrar of the Legal Services Tribunal

Issued at the request of

Name

Address

Telephone Number

Facsimile Number

Document Exchange Number

FORM 10

(Rule 17)

Legal Services Tribunal
(Heading and number)

Order to be filed in the Supreme Court [s 171 H]

The Legal Services Tribunal makes the following orders:

Date of order:

(signature)

Member or Registrar of the Legal Services Tribunal

Seal.
