

Administrative Decisions Tribunal Rules 1998 (2009 SI 1)

[2009-1]



New South Wales

Status Information

Currency of version

Historical version for 24 July 2009 to 6 December 2012 (accessed 30 June 2024 at 3:18)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Note**

The *Administrative Decisions Tribunal Rules 1998*, made as Schedule 1 to the *Administrative Decisions Tribunal Rules (Transitional) Regulation 1998*, are on and from 1.1.2009 taken to be rules of the Tribunal that had been made by the Rule Committee under the *Administrative Decisions Tribunal Act 1997 No 76*. See clause 45 of Schedule 5 to the *Administrative Decisions Tribunal Act 1997*.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the *Interpretation Act 1987*.

File last modified 24 July 2009

Administrative Decisions Tribunal Rules 1998 (2009 SI 1)



New South Wales

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Administrative Decisions Tribunal Rules 1998 (2009 SI 1)



New South Wales

Chapter 1 Preliminary

1 Name of rules

These rules are the *Administrative Decisions Tribunal Rules 1998*.

2 Commencement

These rules commence on 6 October 1998.

3 Definitions

In these rules:

approved form, in relation to a document, means the form approved for that document by the President or Registrar from time to time.

original proceedings means proceedings in the Tribunal for an original decision.

Registry means:

- (a) an office of the Registrar, or
- (b) such other place approved by the President or the Registrar for the lodgment of documents.

review proceedings means proceedings in the Tribunal for a review of a reviewable decision.

the Act means the *Administrative Decisions Tribunal Act 1997*.

Note—

The following expressions are also defined in section 3 of the Act and, by operation of section 11 of the *Interpretation Act 1987*, have the same meanings in these rules:

| | |
|---------------|------------------|
| administrator | judicial member |
| Appeal Panel | judicial officer |

| | |
|---------------------|--------------------------------|
| appealable decision | member |
| application | non-judicial member |
| assessor | original decision |
| decision | parties |
| Deputy President | practising legal practitioner |
| Division | President |
| Division member | presidential judicial member |
| Divisional Head | Registrar |
| enactment | relevant Divisional Head |
| exercise | reviewable decision |
| function | Rule Committee |
| interested person | rules of the Tribunal or rules |
| internal review | Tribunal |

4 Application of rules

The Tribunal, the President or a Divisional Head may dispense with compliance with any requirement of these rules, either before or after the occasion for compliance arises.

5 Notes

The notes in the text of these rules do not form part of these rules.

Chapter 2 Documentation

6 Address for service

An application, a reply to an application or any other initiating document lodged with the Tribunal must contain an address for service in respect of the party by whom the document is lodged and that address must include a place and telephone number in New South Wales.

7 Stamping and lodgment of documents

If an application is lodged with the Tribunal (or a summons is issued by the Tribunal):

- (a) the date of lodgment (or issue) must be recorded on the application (or summons),
and
- (b) the application or summons must be sealed with the seal of the Tribunal.

Note—

Section 138 (2) of the Act provides that a notice or other document may be served on the Tribunal by leaving it at, or by sending it by post to (or a document that is required or permitted to be lodged with the Tribunal may be lodged at):

- (a) the office of the Registrar, or
- (b) if the Registrar has more than one office, any one of those offices.

8 Approved form for documents generally to be used

- (1) Subject to these rules, any document to be used in proceedings before the Tribunal is to be in or to the effect of the approved form.
- (2) The Registrar may make any approved form available to any person on request.

9 Form of documents if no approved form

If there is no approved form for a document to be used in proceedings before the Tribunal, a party may use a form of its own devising, but only if it contains such information as may be required by the Registrar.

10 Registrar may accept documents that are not in approved form

- (1) The Tribunal or Registrar may accept any application or other document for lodgment with the Tribunal even though it does not comply with the approved form if the Tribunal or Registrar considers it appropriate to do so.
- (2) Before accepting any such application or other document, the Tribunal or Registrar may require the person on whose behalf the document is being lodged to give the Tribunal or Registrar such further information as the Tribunal or Registrar may require within such period as may be specified by the Tribunal or Registrar.
- (3) A document accepted by the Tribunal or Registrar under this rule is taken to be duly lodged for the purposes of these rules.

11 Tribunal or Registrar may accept documents that are not duly completed

- (1) With the approval of the Tribunal or the Registrar, a document that is not duly completed may be accepted for lodgment.
- (2) Before accepting a document that is not duly completed for lodgment, the Tribunal or Registrar may require the person on whose behalf the document is being lodged to give an undertaking to the Tribunal that the document will be resubmitted in the proper form within such period as is specified by the Tribunal or Registrar.

12 Proof of service of document

If a party to proceedings before the Tribunal is required to serve a document on another person by the Act or these rules, the Tribunal or Registrar may require the party to furnish the Tribunal with such proof of its service as the Tribunal or Registrar may require.

Chapter 3 Commencement and conduct of proceedings (other than appeals)

Part 1 Interpretation

13 Inter-relationship between general rules and Divisional rules

- (1) Subject to subrule (2), a provision of Part 2 (a **general rule**) applies to all proceedings in the Tribunal (other than internal appeals or external appeals) regardless of the Division to which the function of determining the proceedings has been allocated by the Act.
- (2) If a provision of this Chapter provides for a particular practice or procedure to be complied with in proceedings allocated to a Division of the Tribunal by the Act (a **Divisional rule**), that provision is to be complied with instead of any contrary provision in the general rules.

Part 2 General rules

Division 1 Commencement of proceedings

14 Applications for original decisions

- (1) For the purposes of section 42 (b) of the Act, an application to the Tribunal for an original decision must:
 - (a) be in or to the effect of the approved form, and
 - (b) be duly completed, and
 - (c) be lodged at the Registry, and
 - (d) be accompanied by the applicable fee (if any) for the application.
- (2) An application for an original decision need not specify the Division to which the function of determining the application is allocated by the Act. However, if the appropriate Division is not specified, the Registrar may complete the application form accordingly.
- (3) Unless the enactment under which the application is made provides otherwise, the application must be made to the Tribunal within 28 days from the day on which the applicant became entitled under the enactment to make the application.
- (4) This rule does not apply to a referral to the Tribunal by the Ombudsman of a legal question for an advisory opinion under section 35C of the [Ombudsman Act 1974](#).

15 Applications for reviews of reviewable decisions

- (1) For the purposes of section 55 (1) (c) of the Act, an application to the Tribunal for a review of a reviewable decision must:
 - (a) be in or to the effect of the approved form, and
 - (b) be duly completed, and
 - (c) be lodged at the Registry, and
 - (d) be accompanied by the applicable fee (if any) for the application.
- (2) An application for the review of a reviewable decision need not specify the Division to which the function of determining the application is allocated by the Act. However, if the appropriate Division is not specified, the Registrar may complete the application form accordingly.

16 Referral by Ombudsman of legal questions for advisory opinion

- (1) A referral to the Tribunal by the Ombudsman of a legal question for an advisory opinion under section 35C of the *Ombudsman Act 1974* must:
 - (a) be in writing and dated, and
 - (b) be signed by the Ombudsman, and
 - (c) specify the legal question in respect of which the Tribunal's opinion is sought, and
 - (d) specify factual circumstances (whether actual or hypothetical) in respect of which the Ombudsman seeks to have the legal question concerned considered by the Tribunal, and
 - (e) be lodged with the Registry.
- (2) The President or the Tribunal may, at any time, request the Ombudsman:
 - (a) to provide additional information in respect of a referral, or
 - (b) to clarify any issue or other matter arising in any such referral, or
 - (c) to serve such persons as the President or Tribunal may specify with a copy of the referral.
- (3) The Tribunal may permit any person that it considers has an interest in the determination of the legal question referred to it by the Ombudsman to make submissions to the Tribunal concerning that question.

17 Notice of lodgment and service of applications

- (1) For the purposes of section 72 of the Act, the Registrar must endeavour, within 28

days (if possible) from the day of the lodgment of an application with the Tribunal, to ensure that each party (other than the applicant) to original proceedings or review proceedings is served (in accordance with section 138 of the Act) with a notice of the application required by section 72 of the Act.

Note—

Section 72 of the Act provides that the Registrar must cause notice of an application to the Tribunal to be served on any party (other than the applicant) to the proceedings within such time and in such manner as may be prescribed by the rules of the Tribunal.

- (2) The Tribunal or the Registrar may direct an applicant to serve a sealed copy of an application for an original decision or a review of a reviewable decision on another party within such time as the Tribunal or Registrar may specify.
- (3) The Registrar may undertake to effect service of a sealed copy of any such application on behalf of an applicant either at the same time as the notice referred to in subrule (1) is served or subsequently.

18 Notice in reply to application

- (1) Subject to subrule (3), a respondent to an application may lodge a notice in reply to the application with the Tribunal setting out the respondent's response to the application.
- (2) A notice in reply must be in or to the effect of the approved form.
- (3) The Tribunal may direct a respondent to lodge a notice in reply to an application in such manner and within such period as it may direct.
- (4) A respondent who lodges a notice in reply must serve on the applicant a copy of the reply before, at the same time as or as soon as practicable after lodging the notice.

Division 2 Conduct of proceedings

19 Directions hearings

- (1) At a directions hearing authorised by a judicial member under section 73 (6) of the Act, the member authorised to hold the hearing may give directions as to the steps to be taken in the proceedings concerned.
- (2) Without limiting subrule (1), any one or more of the following directions may be given at a directions hearing:
 - (a) a direction to a party to provide any other party or the Tribunal with further particulars of any allegation or claim made in the proceedings,
 - (b) a direction to a party to lodge further documents with the Tribunal,
 - (c) a direction to a party to make available to any other party a copy of a specified

document (not being a document that is privileged from production or cannot otherwise be disclosed under the Act),

- (d) a direction revoking or varying any direction made at a previous directions hearing,
- (e) if proceedings concern a referral of a matter to the Tribunal—a direction that any report by the party referring the matter to the Tribunal be made available to any party,
- (f) a direction as to the hearing date for the proceedings.

20 Issue of summons

- (1) An application by a party to proceedings for a summons under section 84 must be made in or to the effect of the approved form.
- (2) An applicant for a summons must provide the Registry with the following completed copies of the proposed summons:
 - (a) one copy for the file of the Tribunal,
 - (b) one copy for service on the person proposed to be named in the summons,
 - (c) one copy for the applicant,
 - (d) one copy each for all of the other parties to the proceedings.
- (3) If a summons is issued, the summons (and any sealed copies of the summons required to be served under subrule (6)) must be served on the person named in the summons:
 - (a) where the summons is issued at the direction of the Tribunal—by or on behalf of the Registrar, or
 - (b) where the summons is issued on the application of a party—by or on behalf of that party.
- (4) The summons must be served on the person named in the summons at least 5 days (or within such other period as the Registrar may direct) before the return date specified in the summons.

Note—

Rule 42A makes provision for the reckoning of time for the purposes of these rules.

- (5) If a summons is issued on the application of a party to proceedings, that party must, at the time the summons is served, cause to be paid or tendered to the person named in the summons a sum of money payable to the person in accordance with section 141 of the Act.

Note—

Section 141 of the Act provides that a person (other than a public servant) who is required to appear or give evidence before the Tribunal is entitled to be paid such allowances and expenses as are ascertained in accordance with a scale of allowances and expenses prescribed by the regulations. Clause 12 of the [Administrative Decisions Tribunal \(General\) Regulation 2004](#) provides for the prescribed scale of allowances and fees for witnesses required to appear or give evidence before the Tribunal.

- (6) A sealed copy of the summons must be served on each party to the proceedings before the return date specified in the summons, except as provided by subrule (7).
- (7) A sealed copy of the summons is not required to be served under subrule (6) on a party to proceedings if the party applied for the summons or is the person named in the summons.

20A Granting and revocation of leave for agent to represent party

- (1) This rule provides for the circumstances in which it is appropriate under section 71 of the Act for the Tribunal to grant, refuse or revoke leave for an agent to represent a party in proceedings, or part of proceedings, in the Tribunal.

Note—

Section 71 (3A) of the Act provides that the rules of the Tribunal may make provision for or with respect to the following matters:

- (a) the circumstances in which it is, or is not, appropriate for the Tribunal to grant leave for an agent to represent a party,
 - (b) the circumstances in which it is, or is not, appropriate for the Tribunal to revoke any such leave.
- (2) It is appropriate for the Tribunal to grant leave to a person to represent a party as the party's agent in proceedings if the Tribunal is satisfied that the person has:
 - (a) a sufficient degree of competence to provide effective representation for the party, and
 - (b) the ability to deal fairly and honestly with the Tribunal and other persons involved in the proceedings.
 - (3) It is appropriate for the Tribunal to refuse leave to a person to represent a party as the party's agent in proceedings if the Tribunal is satisfied that the person does not have the qualities referred to in subrule (2).
 - (4) It is appropriate for the Tribunal to revoke leave granted to a person to represent a party as the party's agent in proceedings if the Tribunal is satisfied that:
 - (a) the party no longer consents to the person representing the party as the party's agent, or
 - (b) the person applied for leave to represent that party as the party's agent without the consent of the party, or

(c) the person does not have the qualities referred to in subrule (2) to act as the party's agent, or

(d) the party is, or has become, an incapacitated person within the meaning of section 71 of the Act.

Note—

Section 71 of the Act enables the Tribunal to appoint a person to represent a party who is an incapacitated person.

(5) Nothing in this rule limits the matters that the Tribunal may take into account in deciding whether it is, or is not, appropriate for the Tribunal to grant, refuse or revoke leave for a person to represent a party as the party's agent in proceedings.

Part 3 Divisional rules for Legal Services Division

Division 1 General

21 Interpretation

In this Division:

Council means either the Council of the Law Society of New South Wales or the Council of the New South Wales Bar Association.

informant means a Council or the Legal Services Commissioner instituting proceedings in the Tribunal by an information lodged with the Tribunal under section 167 of the [Legal Profession Act 1987](#).

information means an information referred to in section 167 of the [Legal Profession Act 1987](#).

legal practitioner has the same meaning as it has in the [Legal Profession Act 1987](#).

professional misconduct has the same meaning as it has in the [Legal Profession Act 1987](#).

unsatisfactory professional conduct has the same meaning as it has in the [Legal Profession Act 1987](#).

22 Application of Part to licensed conveyancers

Division 2 applies to proceedings instituted by the Director-General of the Department of Fair Trading in respect of a licensed conveyancer in accordance with Part 6 of the [Conveyancers Licensing Act 1995](#) and Part 10 of the [Legal Profession Act 1987](#), on the basis that, in Division 2, the word **informant** includes the Director-General of the Department of Fair Trading and the words **licensed conveyancer** are substituted, when appropriate, for the words **legal practitioner**.

23 Repeal of Legal Services Tribunal Rules 1997

- (1) The *Legal Services Tribunal Rules 1997*, as continued in force by clause 12 of Schedule 5 to the Act, are repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Legal Services Tribunal Rules 1997*, had effect under those Rules continues to have effect under these rules.

Division 2 Proceedings under Part 10 of [Legal Profession Act 1987](#)

24 Form of information

An information intended to institute proceedings in the Tribunal in respect of a complaint of unsatisfactory professional conduct or professional misconduct, as required by section 167 of the [Legal Profession Act 1987](#), must be in or to the effect of the approved form.

25 Accompanying affidavit

- (1) If an informant lodges an information with the Tribunal, the informant must at the same time lodge with the Tribunal an affidavit sworn by a competent person on the informant's behalf containing particulars that are sufficient to:
 - (a) identify the author of the complaint to which the information relates and describe briefly the allegations of unsatisfactory professional conduct or professional misconduct on which the complaint is based, and
 - (b) describe briefly the action taken by the informant to investigate the complaint, and
 - (c) identify:
 - (i) any person who investigated the complaint, or matters associated with it, and on whose evidence the informant relies, and
 - (ii) the reports or other documents relating to the investigation which the informant intends to tender in evidence, and
 - (d) establish, for the purposes of section 128 of the [Legal Profession Act 1987](#), that the person who is the subject of the complaint was a legal practitioner to whom Part 10 of the [Legal Profession Act 1987](#) applies, at the time when the alleged professional misconduct, or unsatisfactory professional conduct, occurred.
- (2) The informant must lodge with the information and the affidavit required by subrule (1):
 - (a) true copies of the reports and other documents, if any, referred to in subrule (1)
 - (c) (ii), identified as exhibits to that affidavit, or

- (b) an affidavit by the person who conducted the relevant investigation annexing copies of the reports and other documents.

26 Service of information and related documents

As soon as practicable after lodging the information with the Tribunal, the informant must serve sealed complete copies of the following documents on the legal practitioner in accordance with section 138 of the Act:

- (a) the information, and
- (b) any affidavit, report or other document lodged with the Tribunal under rule 25.

Note—

Section 138 of the Act provides for the means by which the service of documents may be effected for the purposes of the Act.

27 Lodgment of a reply to information

- (1) The legal practitioner in respect of whom an information is lodged must lodge with the Tribunal a reply to the information as required by section 167 of the *Legal Profession Act 1987* within 21 days from the day on which the documents referred to in rule 26 are served.
- (2) The reply must:
 - (a) be in or to the effect of the approved form, and
 - (b) traverse each allegation in the information with which the legal practitioner takes issue and must state in summary form any material facts and circumstances on which the legal practitioner relies.
- (3) If the legal practitioner fails to lodge with the Tribunal a reply complying with subrule (2) within the time specified by subrule (1) or such further time as the Tribunal allows, the legal practitioner may not lead evidence on the hearing of the information in relation to any matter of which notice should have been given in a reply unless the Tribunal grants leave to do so.

28 Directions hearings

- (1) A judicial member may authorise a member to hold a directions hearing under section 73 (6) of the Act in respect of an information only after the expiry of 28 days from the day on which the information is lodged with the Tribunal.
- (2) The informant and the legal practitioner must each lodge with the Tribunal, and serve on the other, a notice of appearance in or to the effect of the approved form not less than 7 days before the day appointed for a directions hearing.
- (3) Without limiting the generality of rule 19, the Tribunal may give any one or more of

the following directions at a directions hearing:

- (a) a direction that discovery and examination of all relevant documents be completed by a specified date,
- (b) a direction that affidavits or statements of evidence of the intended witnesses be lodged with the Tribunal and served by a specified date,
- (c) a direction that each party serve on the other and lodge with the Tribunal by a specified date a notice indicating the names of those witnesses whom the party requires to attend at the hearing for cross-examination,
- (d) a direction that particulars of any claim for compensation and of the means by which it is intended to prove the claimed loss be lodged and served by a specified date,
- (e) a direction that the hearing of the information will take place on a specified day or on specified days, and
- (f) a direction that the parties attend before the Tribunal on a day before the appointed hearing for any directions necessary to ensure their readiness for the hearing.

29 Matter may be listed for hearing despite absence of legal practitioner

The Tribunal may list an information for hearing and may proceed to conduct a hearing, despite the legal practitioner's failure to appear, if the following matters are proved to the satisfaction of the Tribunal:

- (a) that the documents referred to in rule 26 have been served on the legal practitioner,
- (b) that the time limited for the lodging of a reply to the information, or any extension of that time ordered by the Tribunal, has expired,
- (c) that the time specified by the Tribunal for compliance with any direction given by it to the parties has expired,
- (d) that when it proceeds to conduct a hearing, sufficient notice has been given to the legal practitioner of the date of the hearing.

Division 3 Proceedings under Part 3A of [Legal Profession Act 1987](#)

Subdivision 1 Applications under section 48I or 48J of the [Legal Profession Act 1987](#)

30 Form of applications under section 48I or 48J of the [Legal Profession Act 1987](#)

An application by a Council under section 48I or 48J of the [Legal Profession Act 1987](#) must

be in or to the effect of the approved form.

31 Accompanying documents

- (1) If a Council lodges an application with the Tribunal under section 48I or 48J of the *Legal Profession Act 1987*, it must at the same time lodge an affidavit, made by a competent person on its behalf, containing particulars that are sufficient to:
 - (a) describe briefly the action taken by the Council to investigate the relevant conduct of the person in respect of whom the application is made, and
 - (b) identify:
 - (i) any person who investigated the relevant conduct on behalf of the Council and on whose evidence the Council relies, and
 - (ii) the reports and other documents relating to the investigation which the Council intends to tender in evidence.
- (2) The informant must lodge with the affidavit required by subrule (1):
 - (a) true copies of the reports and other documents, referred to in subrule (1) (b) (ii), identified as exhibits to that affidavit, or
 - (b) an affidavit by the person who conducted the relevant investigation annexing copies of the reports and other documents.

32 Service of documents related to applications

As soon as practicable after lodging an application with the Tribunal under section 48I or 48J of the *Legal Profession Act 1987*, a Council must serve sealed complete copies of the following documents on the person in respect of whom the application is made (referred to in the rules following in this Subdivision as the **respondent**) in accordance with section 138 of the Act:

- (a) the application, and
- (b) any affidavit, report or other document lodged with the Tribunal under rule 31.

Note—

Section 138 of the Act provides for the means by which the service of documents may be effected for the purposes of the Act.

33 Lodgment of reply to application

- (1) A respondent to an application under section 48I or 48J of the *Legal Profession Act 1987* who intends to appear on the hearing of the application must lodge with the Tribunal a reply to the application within 21 days from the day on which the documents referred to in rule 32 are served.

- (2) The reply must:
 - (a) be in or to the effect of the approved form, and
 - (b) traverse each allegation in the application with which the respondent takes issue, and
 - (c) state in summary form any material facts and circumstances on which the respondent relies.
- (3) If a respondent fails to lodge a reply complying with subrule (2) within the time specified by subrule (1) or such further time as the Tribunal allows, the respondent may not lead evidence on the hearing of the application in relation to any matter of which notice should have been given in a reply unless the Tribunal grants leave to do so.

34 Directions hearings

- (1) A judicial member may authorise a member to hold a directions hearing under section 73 (6) of the Act in respect of an application under section 48I or 48J of the [Legal Profession Act 1987](#) only after the expiry of 28 days from the day on which the application is lodged with the Tribunal.
- (2) Without limiting the generality of rule 19, the Tribunal may give any directions at a directions hearing that include directions to the effect of those specified in rule 28 to the extent that they may be appropriate.

35 Matter may be listed for hearing despite absence of respondent

The Tribunal may list an application under section 48I or 48J of the [Legal Profession Act 1987](#) for hearing and may proceed to hear the application, despite the failure of the respondent to appear, if the following matters are proved to the satisfaction of the Tribunal:

- (a) that the documents referred to in rule 32 have been served on the respondent,
- (b) that the time limited for the lodgment of a reply to the application, or any extension of that time ordered by the Tribunal, has expired,
- (c) that the time specified by the Tribunal for compliance with any direction given by it to the parties has expired,
- (d) that when it proceeds to conduct a hearing, sufficient notice has been given to the respondent of the date of the hearing.

Subdivision 2 Applications for approval to be associate

36 Applications for approval to be associate of legal practitioner

- (1) A person who has been convicted of an indictable offence and who seeks the approval of the Tribunal under section 48K (2) of the *Legal Profession Act 1987* in order to be an associate (as defined in section 48K (7) of that Act) of a solicitor or barrister must lodge with the Tribunal:
 - (a) an application in or to the effect of the approved form, and
 - (b) an affidavit by the applicant containing particulars of the relevant offence and conviction, an explanation of the circumstances in which the approval is required and the grounds on which the applicant relies to justify the grant of the approval sought.

37 Service of application for approval to be associate and related affidavit

- (1) As soon as practicable after lodging an application with the Tribunal under section 48K (2) of the *Legal Profession Act 1987*, the applicant must serve sealed complete copies of the following documents on the relevant Council:
 - (a) the application,
 - (b) any affidavit lodged with the Tribunal under rule 36.

Note—

Section 138 of the Act provides for the means by which the service of documents may be effected for the purposes of the Act.

- (2) For the purposes of this rule, ***the relevant Council*** means:
 - (a) if the applicant is seeking the Tribunal's approval to be an associate of a solicitor—the Council of the Law Society of New South Wales, or
 - (b) if the applicant is seeking the Tribunal's approval to be an associate of a barrister—the Council of the New South Wales Bar Association.

38 Notices of appearance

- (1) If a Council wishes to appear on the hearing of an application under section 48K (2) of the *Legal Profession Act 1987*, it must lodge with the Tribunal a notice of appearance in or to the effect of the approved form and then serve on the applicant a complete sealed copy of the notice.
- (2) After the expiry of 21 days from the day on which an application under section 48K (2) of the *Legal Profession Act 1987* is lodged with the Tribunal, the Tribunal may proceed to hear and determine the application.

Chapter 4 Appeals to an Appeal Panel

39 Manner of making an internal appeal or an external appeal

- (1) For the purposes of section 113 (4) of the Act, an internal appeal may be made by lodging a notice of appeal with the Tribunal.
- (1A) For the purposes of section 118B (3) of the Act, an external appeal may be made by lodging a notice of appeal with the Tribunal.
- (2) A notice of appeal must be:
 - (a) in or to the effect of the approved form, and
 - (b) duly completed, and
 - (c) accompanied by the applicable fee (if any) for the lodgment of the appeal.
- (3) An appellant who lodges a notice of appeal must serve on each respondent a sealed copy of the notice as soon as practicable after lodging the notice.

40 Notice of reply to internal appeal or external appeal

- (1) A respondent to an internal appeal must lodge a notice in reply with the Tribunal setting out the respondent's response to the notice of appeal within 21 days after being served with the notice of appeal.
- (1A) A respondent to an external appeal must lodge a notice in reply with the Tribunal setting out the respondent's response to the notice of appeal within 21 days after being served with the notice of appeal.
- (2) A notice in reply must be in or to the effect of the approved form.
- (3) A respondent who lodges a notice in reply must serve on the applicant a copy of the reply before, at the same time as or as soon as practicable after lodgment of the notice.

41 Parties to an internal appeal

- (1) For the purposes of section 67 (3) of the Act, the parties to an internal appeal to an Appeal Panel against an original decision of the Tribunal are as follows:
 - (a) if the appellant was the only party in the original proceedings below—the appellant and the Minister administering the enactment under which the application for the original decision concerned was made,
 - (b) in any other case—the persons who were parties to proceedings before the Tribunal for the original decision as specified in section 67 (1) of the Act.
- (2) For the purposes of section 67 (3) of the Act, the parties to an internal appeal to an

Appeal Panel against a decision of the Tribunal determining review proceedings are the persons who were parties to the proceedings as specified in section 67 (2) of the Act.

41A Parties to an external appeal

- (1) For the purposes of section 67 (2A) (d) of the Act, the persons who were parties to the original proceedings are also parties to an external appeal.
- (2) For the purposes of section 67 (2C) of the Act, the Tribunal may designate a respondent or other person to assist the Tribunal in external appeal proceedings.

Chapter 5 Miscellaneous

42 Access to documents or things in Registry

- (1) Subject to the Act, the Registrar may (in consultation with the President) permit any person to do any one or more of the following on such terms as the Registrar may specify:
 - (a) take a document out of the Registry,
 - (b) search for a document in the Registry,
 - (c) inspect any document or thing in the Registry,
 - (d) make a copy of a document in the Registry,
 - (e) have any other kind of access to a document or thing in the Registry as is specified by the Registrar.
- (2) A person may have access to a document or thing in the Registry only in accordance with any permission given under subrule (1) or as otherwise authorised by or under the Act.

Note—

Section 58 of the Act requires the Registrar to grant to applicants for a review of a reviewable decision reasonable access to documents lodged under that section with the Tribunal by the administrator concerned.

- (3) A party to proceedings may not search for or inspect in the Registry any document relating to the proceedings if:
 - (a) the Tribunal has ordered that the document not be disclosed without the consent of the Tribunal, or
 - (b) the disclosure of the document to the party is otherwise prohibited by or under the Act or another law.

Note—

See, in particular, Part 1 of Chapter 8 to the Act, which contains provisions concerning the disclosure of information for the purposes of the Act.

42A Reckoning of time

- (1) Any period of time fixed by these rules, or by any order or other decision of the Tribunal or the Registrar or by any document in any proceedings, is to be reckoned in accordance with this rule.
- (2) If a time of one day or longer is to be reckoned by reference to a given day or event, the given day or the day of the given event is not to be counted.
- (3) If, apart from this subrule, the period in question, being a period of 5 days or less, would include a day or part of a day on which the Registry is closed, that day is to be excluded.
- (4) If the last day for doing a thing is, or a thing is to be done on, a day on which the Registry is closed, the thing may be done on the next day on which the Registry is open.
- (5) Section 36 of the *Interpretation Act 1987* (which relates to the reckoning of time) does not apply to these rules.

43 Extension and abridgment of time

- (1) The Tribunal may, by order, extend or abridge any time fixed by these rules or by any order, on such terms as it specifies.
- (2) The Tribunal may extend the time under subrule (1) before or after the time expires whether or not an application for the extension is made before the time expires.
- (3) This rule does not authorise the Tribunal to extend the time for making an application for an original decision or a review of a reviewable decision otherwise than in accordance with sections 44 and 57 of the Act.

44 Fixing time period

If no time is fixed by these rules for the doing of any thing in or in connection with any proceeding before the Tribunal, the Tribunal may fix the time within which the thing is to be done.

45 Delegation of functions of President

For the purposes of clause 13 of Schedule 3 to the Act, the following functions of the President may be delegated to the Registrar or a Deputy Registrar of the Tribunal:

- (a) the function of the President under section 25 (3) of the Act of determining the places and times for sittings of the Tribunal,

- (b) the functions of the President under section 106 (Mediators and neutral evaluators) of the Act,
- (c) the functions of the President under section 140 (Return of documents after proceedings concluded) of the Act.

Note—

Section 49 of the [Interpretation Act 1987](#) contains general provisions concerning the exercise of powers of delegation conferred by an Act or instrument.

46 Persons authorised to sign summons

For the purposes of section 84 (2) of the Act, a summons may also be signed by any of the following persons:

- (a) a judicial member of the Tribunal,
- (b) a Deputy Registrar of the Tribunal.