



LEGAL PROFESSION (PRACTICE) REGULATIONS 2008

Regulations No. 4 of 2008

I, Owen Edward John Walsh, Acting Administrator of Norfolk Island, acting in accordance with the advice of the Executive Council of Norfolk Island, make the following Regulations under Section 46 of the *Legal Profession Act 1993*.

Dated 24 June 2008.

O.E.J. Walsh
Acting Administrator

By His Honour's Command

S.V. Jack

Minister for the Environment, Education and Social Welfare

Acting at the request of and for and on behalf of Minister for Tourism and Health

Short title

1. These Regulations may be cited as the *Legal Profession (Practice) Regulations 2008*.

Commencement

2. These Regulations are effective from 1 July 2008.

Interpretation

3. In these Regulations, unless the contrary intention appears —

“Act” means the *Legal Profession Act 1993*.

“current practitioner” means a practitioner who holds a Norfolk Island certificate of entitlement to practise.

Register of Practitioners

4. The Register of Practitioners under section 11 of the Act shall contain at least the following information —

- (a) the full name of each practitioner.
- (b) the Roll or Rolls of the High Court or of the Supreme Court of a State or Territory upon which each practitioner's name appears;
- (c) the principal address at which the practitioner carries on business either alone or in partnership or as an employee;
- (d) after 1 July 2008, a statement of whether or not the practitioner is authorised to receive trust money;

- (e) the date upon which a certificate of entitlement to practice was issued to each resident practitioner and if renewed, when so renewed;
- (f) the date upon which the practitioner's name was entered.

Statutory declaration by person who did not hold trust money in an audit year

5. After 1 July 2008, for the purposes of section 30(1) of the Act the prescribed form of statutory declaration is Form 1 of Schedule 1.

Statutory declaration by person who ceases to hold trust money

6. (1) After 1 July 2008, if a practitioner ceases to hold any trust money before the end of a financial year the practitioner must make and provide to the auditor a statement in the prescribed form within 14 days of so ceasing.

(2) The prescribed form of statutory declaration under this regulation is Form 2 of Schedule 1.

Application for entry on Register of Practitioners and Oath or affirmation

7. (1) For the purpose of establishing entitlement to practice as a practitioner the prescribed form of application by a resident practitioner is Form 1 of Schedule 2

(2) For the purpose of renewing a certificate of entitlement to practise the form is Form 2 of Schedule 2

(3) The form of Oath or affirmation to be provided by an applicant under subregulation (1) is in Schedule 6.

Fees for certificate of entitlement to practise

8. The prescribed fee for a Norfolk Island certificate of entitlement to practise is —

- (a) for a certificate of entitlement to practise of a resident practitioner authorising the receipt of trust money — 3 fee units;
- (b) after 1 July, 2008, for a certificate of entitlement to practise of a resident practitioner not authorising the receipt of trust money —
 - if the applicant is a current practitioner — 2 fee units
 - if the practitioner is not a current practitioner — 1 fee unit.
- (c) for a certificate of entitlement to practise of a resident practitioner that is valid for part of a year only, the number of fee units that bears the same proportion to the relevant fee in paragraph (a) or (b) as the period of validity of the certificate bears to the whole year, rounded up to a whole fee unit.

Form of certificate of entitlement to practise

9. A Norfolk Island certificate of entitlement to practise shall be in the form in Schedule 3.

Validity of certificate of entitlement to practise

10. (1) A certificate of entitlement to practise is valid until 30 June following its issue.

(2) A person whose certificate of entitlement to practise has expired ceases to be a current practitioner and is not entitled to practise.

Application of the Act to the Administration

11. (1) In accordance with section 44(2) of the Act, a person who would but for this Regulation be entitled to be admitted to practise as a practitioner and who is employed by the Administration as a practitioner or who is employed or appointed in a legal capacity in an office described in Schedule 4 is taken to hold, for the purposes of the Act and for the purposes of that employment, a Norfolk Island certificate of entitlement to practise as a practitioner as a barrister and solicitor or barrister or solicitor for the period during which the person is so employed and any such person may apply to the Registrar to be entered on the Register of Practitioners.

(2) A person whose name is entered on the Register of Practitioners under subsection (1) and who ceases to hold an office described in Schedule 4 shall be removed from the Register at his or her request or by the Registrar of his or her own motion.

(3) A request under subregulation (1) shall be in accordance with the form in Schedule 5.

Powers of Supreme Court not affected

12. Nothing in these Regulation affect the power of the Supreme Court to take or enforce disciplinary proceedings against a person under the Act or under the *Supreme Court Act 1960* or Rules of Court.

Schedule 1**Form 1***Regulation 5***Legal Profession Act 1993****Statutory Declaration by Legal Practitioner or Firm that did not hold Trust Money in an Audit Year**I, *[insert full name]*, of *[insert address]*

DECLARE THAT:

1. I am */a legal practitioner/a partner of a firm/who/that is authorised to receive trust money.
2. */I/The firm of which I am a partner did not hold any trust money within the meaning of section 22 of the **Legal Profession Act 1993** during the audit year ending on 30 June *[insert year]*.

I acknowledge that this declaration is true and correct and I make it in the belief that a person making a false declaration is liable to the penalties of perjury.

DECLARED AT *[place]*

in Norfolk island

on *[date]*

Before:

[Name and address in legible writing, type or stamp below signature]

a person authorised to witness the signing of a statutory declaration.

* Omit words not applicable

Form 2*Regulation 6(2)***Legal Profession Act 1993****Statutory Declaration by Legal Practitioner or Firm that Ceases to hold Trust Money**I, *[insert full name]*, of *[insert address]*

DECLARE THAT:

1. I am or was */a legal practitioner/a partner of a firm */who/that ceased to be authorised to receive trust money on *[insert date]*.
2. */I/The firm of which I am a partner ceased to hold trust money within the meaning of section 22 of the **Legal Profession Act 1993** on *[insert date]* and */do/does not now hold any trust money, all such trust money having been applied in accordance with that Act.

I acknowledge that this declaration is true and correct and I make it in the belief that a person making a false declaration is liable to the penalties of perjury.

DECLARED AT *[place]*

in Norfolk Island

on *[date]*

Before:

[Name and address in legible writing, type or stamp below signature]

a person to witness the signing of a statutory declaration.

* Omit words not applicable

Schedule 2**Form 1***Regulation 7(1)***Application by resident practitioner to be entered on the Register of Practitioners**

To:

The Registrar of the Supreme Court of Norfolk Island

I, [name] of [address] apply to be entered on the Register of Practitioners.

My name has been entered on the Roll of barristers/solicitors/barristers and solicitors/legal practitioners/lawyers* of the High Court/Supreme Court of the State/Territory of * and has not since been suspended or cancelled.

I am not otherwise prohibited from carrying on the practice of barrister/solicitor/barrister and solicitor/legal practitioner/lawyer* in any State or Territory as a result of any criminal, civil or disciplinary proceedings.

I consent to the making of inquiries of and the exchange of information with the authorities of any State or Territory regarding my activities in the practice of barrister/solicitor/barrister and solicitor/legal practitioner/lawyer* regarding matters relevant to this application.

My application fee is enclosed.

.....

Signature of applicant

Date:

*delete as appropriate

Form 2**Application for renewal of certificate of entitlement to practise***Regulation 7(2)*

To:

The Registrar of the Supreme Court of Norfolk Island.

I, [name] of [address] apply for renewal of my certificate of entitlement to practise.

Since my application to be entered on the Register of Practitioners/the issue of my certificate of entitlement to practice* my name has not been removed or suspended from the Register in respect of which my name has been entered on the Register of Practitioners nor from any other Register and I remain entitled to be entered on the Register of Practitioners.

My renewal application fee is enclosed.

.....

Date:

*delete as appropriate

Schedule 3*Regulation 8***Norfolk Island Certificate of entitlement to practise**

This is to certify that [name] is entitled to engage in legal practice as a *sole practitioner/partner in a firm/employee of another practitioner/employee of a firm] in Norfolk Island in accordance with the *Legal Profession Act 1993* and in accordance with the Act is/is not authorised to receive trust money.

This certificate expires on 30 June 20 .

.....

Registrar of the Supreme Court

*delete as required

Schedule 4*Regulation 9(1)***Norfolk Island Administration Offices**

The offices of—

Crown Counsel
 Deputy Crown Counsel
 Legislative Counsel
 Counsel
 Registrar of Titles
 Registrar of Companies
 Registrar of Associations
 Curator of Deceased Estates

Schedule 5*Regulation 9(4)***Form of application by the holder of a Norfolk Island Administration Office**

To the Registrar of the Supreme Court

I, [name] of [address] declare that my name has been entered on the Roll of barristers/solicitors/barristers and solicitors/legal practitioners/lawyers* of the High Court/Supreme Court of the State/Territory of * and I am a person employed by the Administration of Norfolk Island in the office of*being an office described in Schedule 3 of the *Legal Profession (Practice) Rules*, and request that my name be entered on the Register of Practitioners

.....

(Signature of applicant)

* insert description of office from Schedule 4 of the *Legal Profession (Practice) Rules***Schedule 6****Oath or Affirmation***Regulation 7(3)***OATH OF OFFICE**

I swear by almighty God that I will well and honestly conduct myself in the practice of my profession as a practitioner and as an officer of this honourable Court to the best of my knowledge and ability.

AFFIRMATION OF OFFICE

I solemnly sincerely and truly declare and affirm that I will well and honestly conduct myself in the practice of my profession as a practitioner and as an officer of this honourable Court to the best of my knowledge and ability.

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