

Western Australia

**Legal Practitioners Disciplinary Tribunal Rules
1993**

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Legal Practitioners Disciplinary Tribunal Rules 1993

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Notes

Western Australia

LEGAL PRACTITIONERS ACT 1893

**Legal Practitioners Disciplinary Tribunal Rules
1993**

Made by the Board with the concurrence of the chairman of the
Disciplinary Tribunal under section 6 (1) (gc) of the Act.

Part 1 — Preliminary

1. Citation

These rules may be cited as the *Legal Practitioners Disciplinary Tribunal Rules 1993*.

2. Interpretation

In these rules unless the contrary intention appears —

“**Committee**” means the Legal Practitioners Complaints Committee established under section 25 of the Act;

“**Registrar**” means the Registrar of the Disciplinary Tribunal appointed under section 28E (7) of the Act.

Part 2 — Disciplinary proceedings by the Tribunal

3. Reference for hearing

- (1) A reference shall give particulars of the conduct complained of and specify in what respect or respects the alleged conduct constitutes one or more of the following:
 - (a) Illegal conduct.
 - (b) Unprofessional conduct.
 - (c) Neglect in the course of the practice of the law.
 - (d) Undue delay in the course of the practice of the law.
- (2) A reference may be made in respect of more than one practitioner.

4. Reference by Complaints Committee

A reference under section 28C (1) of the Act by the Complaints Committee shall be in form TA in the Schedule and shall be signed for the Committee by —

- (a) a member of the Committee;
- (b) the Law Complaints Officer; or
- (c) a legal practitioner acting for the Committee.

5. Reference by aggrieved complainant

A reference under section 28C (2) (b) of the Act by a complainant shall be in form TB in the Schedule and shall be verified by the statutory declaration of the complainant.

6. Filing and service

A reference shall be filed in duplicate with the Registrar who shall forthwith serve a copy on the practitioner the subject of the reference.

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7. Answer

- (1) Within 14 days after service of a reference referred to in rule 6 the practitioner, the subject of the reference, shall —
 - (a) make a frank and full answer to the allegations in the reference;
 - (b) verify the answer by statutory declaration; and
 - (c) file the answer, in duplicate, with the Registrar.
- (2) An answer shall —
 - (a) indicate clearly the facts and other allegations in a reference which are admitted and those which are denied; and
 - (b) specify any additional or different material facts which will be relied on in answer to the allegations in the reference.

8. Service of answer

The Registrar shall forthwith serve a copy of an answer filed with the Tribunal on the party instituting the reference.

9. Further particulars

- (1) The Tribunal, by notice in writing signed by the Chairman, any 2 members or the Registrar, may require a party who has filed a reference or an answer to give further particulars of any matter in the reference or answer within the time specified in the notice.
- (2) Further particulars of an aggrieved complainant or of an answer shall be verified by statutory declaration.
- (3) Further particulars shall be filed in duplicate with the Registrar who shall forthwith serve a copy on the other party to the proceedings.

10. Notice of hearing

After the time fixed under rule 8 for the filing of an answer the Tribunal shall give the parties to a reference not less than 7 clear days' notice in writing of the time and place of hearing of the reference and short particulars as to the matter to be heard.

11. Summons to witness or to produce records

- (1) A party to a reference may apply to the Registrar for the issue of a summons for either or both of the following —
 - (a) the attendance at a hearing of any person, including another party to the reference;
 - (b) the production of any record or other thing to the hearing.
- (2) A summons —
 - (a) under subrule (1) (a) shall be in form TC; and
 - (b) under subrule (1) (b) shall be in form TD,in the Schedule.
- (3) A summons shall be signed by the Registrar or a member of the Tribunal and shall be sealed with the seal of the Tribunal.

12. Conduct of hearing

- (1) The Tribunal may regulate its own procedure.
- (2) The Tribunal may adjourn a hearing from time to time.
- (3) The Tribunal may give and notify its determination of a matter at a sitting of the Tribunal or by writing served on the parties.

13. Service

- (1) Subject to this rule and without otherwise affecting the application of sections 75 and 76 of the *Interpretation Act 1984* where service of a reference, answer, notice, determination or other process required by these rules or for the purpose of any

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proceedings of the Tribunal, is effected by post it shall be by registered post.

- (2) Service on a practitioner may be effected by post or otherwise at the address of that practitioner recorded in the register of practice certificates maintained by the secretary of the Legal Practice Board.
- (3) Service on any party may be effected by post or otherwise at the address for service nominated by that party for the purpose of the proceedings.

Part 3 — Register of references

14. Registrar to maintain register

The Registrar shall maintain a register of all references to the Tribunal recording —

- (a) the date of the reference;
- (b) the number allocated to the reference;
- (c) the name of each practitioner the subject of a reference;
- (d) the name of the party instituting the reference;
- (e) brief particulars of the reference; and
- (f) the manner in which the reference was dealt with by the Tribunal.

Part 4 — Miscellaneous

15. Rules may be varied

- (1) The Tribunal may abridge or extend any time fixed by these rules on, or without, an application by any party to proceedings and whether or not the time fixed has expired.
- (2) This power may be exercised by the Chairman, the Deputy Chairman or any 2 other members of the Tribunal where, in the view of the Chairman, the Deputy Chairman or the 2 members, it is convenient or desirable in the circumstances.
- (3) The Tribunal may waive or vary the application of any of these rules in a particular case where the Tribunal considers that compliance would cause injustice or undue inconvenience to a party.

[16, 17. Repealed in Gazette 1 Sep 2000 p.5013.]

**Schedule
FORM TA**

[Rule 4]

In the Legal Practitioners Disciplinary Tribunal
No. of
19

In The Matter of the *Legal Practitioners Act 1893*
AND
In The Matter of a Reference by the Legal
Practitioners Complaints Committee concerning

.....
a practitioner.

REFERENCE TO THE TRIBUNAL

Date of Filing:
Filed on behalf of the Legal Practitioners Complaints Committee
Prepared by:
Address for Service:
Name of Practitioner:
Address of Practitioner:

Particulars of Reference
Dated the day of 199
for Legal Practitioners Complaints Committee.

Sch.

FORM TB

[Rule 5]

In the Legal Practitioners Disciplinary Tribunal

No. of
19

In The Matter of the *Legal Practitioners Act 1893*

AND

In The Matter of a Reference by

(Name of Complainant)

concerning

a practitioner.

REFERENCE TO THE TRIBUNAL BY COMPLAINANT
PURSUANT TO SECTION 28C (2) (b)

Date of Filing:

Filed on behalf of the Complainant

Prepared by:

Name of Complainant:

Address:

Address for Service:

Name of Practitioner:

Address:

Particulars of Reference

1. I made complaint to the Legal Practitioners Complaints Committee about the matters alleged below and am aggrieved by the determination of the Committee of which I have received notice dated .
I therefore desire to initiate proceedings against the practitioner by this reference pursuant to section 28C (2) (b) of the *Legal Practitioners Act 1893*.
2. I the abovenamed complainant do solemnly and sincerely declare that the particulars given above are true and correct. I make this solemn declaration conscientiously believing the same to be true by virtue of section 106 of the *Evidence Act 1901*.

Declared at by the said

this day of 19 .

Before me:

Sch.

FORM TC

[Rule 11 (2) (a)]

In the Legal Practitioners Disciplinary Tribunal

No. of
19

In The Matter of the *Legal Practitioners Act 1893*

AND

In The Matter of a Reference to the Tribunal by

.....

of

.....

.....

concerning

..... a practitioner

of

.....

SUMMONS

Greetings:

You are hereby required to attend before the Legal Practitioners Disciplinary Tribunal at on the day of 19

at (time) and so from day to day until the above Reference is heard and determined unless earlier excused by the Tribunal to give evidence on behalf of

[(if required) and to bring with you and produce to the Tribunal the following —

1.

2.

etc.]

Dated the day of 199

.....
REGISTRAR

FORM TD

[Rule 11 (2) (b)]

In the Legal Practitioners Disciplinary Tribunal

No. of
19

In The Matter of the *Legal Practitioners Act 1893*

AND

In The Matter of a Reference to the Tribunal by

.....

of

.....

.....

concerning

..... a practitioner

of

.....

SUMMONS TO PRODUCE

Greetings:

You are hereby required to attend before the Legal Practitioners Disciplinary Tribunal at on or before the day of 19 at (time) and produce to the Tribunal the following —

1.

2.

etc.

Dated the day of 19

.....

REGISTRAR

Notes

¹ This is a compilation of the *Legal Practitioners Disciplinary Tribunal Rules 1993* and includes the amendments referred to in the following Table.

Compilation table

| Citation | Gazettal | Commencement |
|---|--------------------------|--|
| <i>Legal Practitioners Disciplinary Tribunal Rules 1993</i> | 5 Feb 1993 p. 1079-90 | 5 Feb 1993 |
| <i>Legal Practitioners Disciplinary Tribunal Amendment Rules 1999</i> | 1 Sep 2000 p. 5012-13 | 1 Sep 2000 (see r. 2 and <i>Gazette</i> 1 Sep 2000 p. 5012) |