

## **GUIDELINES FOR ADMISSION UNDER THE TRANS-TASMAN MUTUAL RECOGNITION SCHEME**

(Published pursuant to section 39(2) of the *Trans-Tasman Mutual Recognition Act 1997*  
(Cth))

1. The Legal Practitioners Admission Board of the Northern Territory (“*Board*”) is the local registration authority in respect of an application for registration under the *Trans-Tasman Mutual Recognition Act 1997* (Cth) (“*TTMR Act*”).
2. The process for registration under the *TTMR Act* is similar to that in the *Mutual Recognition Act 1992* (Cth) (“*MR Act*”). The main difference is the requirement for the affidavit referred to in paragraph 6 below.
3. A person seeking registration in the Northern Territory under the *TTMR Act* must lodge a written notice with the *Board*. The notice must contain the information specified in section 18 of the *TTMR Act*. The pro forma notice provided for in the guidelines which apply to applications under the *MR Act*, with all necessary changes, may be used for applications under the *TTMR Act*. The notice should be lodged electronically at the Supreme Court via email to NTSC.efile@nt.gov.au. A filing fee is payable.
4. A notice under section 18 must be accompanied by a true copy of the instrument evidencing the applicant's existing registration (*i.e.*, *admission certificate*) or, if there is no such instrument, by sufficient information to identify the applicant and the applicant's current registration (section 18(3)). The applicant must certify that the accompanying document is a complete and accurate copy of the original.
5. If the applicant holds a current practising certificate or similar document evidencing current entitlement to practise, the *Board* requires that to also be lodged with the notice under section 18, and that the applicant certifies that the document is a complete and accurate copy of the original.
6. Unlike in the case of an application under the *MR Act*, the *Board* also requires applicants to provide an affidavit in respect of the suitability matters in section 11 of the *Legal Profession Act* as would apply for an application for admission under that Act. A pro forma affidavit is provided on the website which largely provides for the same content in respect of suitability matters as required in the supporting affidavit for local applicants under that Act.
7. Applicants should therefore acquaint themselves with the Admission Guidelines published on the website to the extent that they relate to suitability matters and other matters relevant to the application. The relevant sections are sections **3.1 - Disclosures**, **4.1 - Nexus and Forum**, **5.2 - Criminal History Checks** and **5.3 - Referee’s Certificates**. Extracts of those sections are an appendix to these Guidelines. Applicants are required to acknowledge that they have read and understood these Guidelines and that regard has been had to these Guidelines when preparing the supporting affidavit (see paragraph 20 of the pro forma affidavit).

8. As all Australian jurisdictions are a local registration authority for the purposes of the *TTR Act*, the *Board* requires applicants to show that the Northern Territory is an appropriate forum for the application by demonstrating a sufficient nexus with the Northern Territory. There is no minimum level of nexus and any nexus considered sufficient by the *Board*, such as work requirements, or an intention to reside in the Northern Territory in the future, or other good reason, will suffice.

#### ***Deemed Registration***

9. Once a practitioner has lodged a notice under section 18, the application must be determined within one month (section 20). The Board may postpone or refuse the application within that month and absent that, the registration is granted at the end of that period (section 20(4)). In any case, pending the grant or refusal of registration, the applicant is deemed to be registered (section 24). When granted, registration takes effect from the date of lodgement of the notice under section 18.
10. Registration under the *TTMR Act* does not override the operation of laws that regulate the requirements for practise as they apply to all persons practising law in the Northern Territory (section 16(2)(a)). Therefore a person granted registration under the *TTMR Act* is required to take an oath or affirmation and sign the Roll before being admitted to practise. Registration is granted conditional upon taking the oath or affirmation and signing the Roll and an applicant will not be entitled to practise until that has been done.
11. Likewise a person who intends to practice under deemed registration must comply with requirements (such as obtaining a practising certificate, arranging necessary insurance, fidelity funds etc.) of the Northern Territory and is subject to the disciplinary provisions applicable in the Northern Territory (section 26).

#### ***Oath or Affirmation: Signing of Roll***

10. A person is not required to appear in person to take the oath or affirmation or to sign the Roll and in lieu may sign a pro forma for insertion in the Roll before the Principal Registrar of the Supreme Court of a State or Territory or a Registrar or Deputy Registrar of the High Court of New Zealand, or before any other officer designated by *the Board*.

#### ***Application for a Practising Certificate***

11. The issue of a Practising Certificate for an applicant for registration is separate to the registration process. Once registered an applicant (not being otherwise entitled to practise), who intends to practise in the Northern Territory must make an application to the Law Society of the Northern Territory for the issue of a Practising Certificate before commencing to practise.

## **Appendix**

### **LEGAL PROFESSION ADMISSION GUIDELINES**

#### **3.1 Disclosures**

Very relevant to an applicant's fitness is the suitability matter in section 11(1)(c) which makes any conviction for a criminal offence a suitability matter. However, the Board considers that any criminal offending, whether resulting in a conviction or a finding of guilt or otherwise, is a relevant matter for the purposes of section 30(1)(b) (see also paragraph 5(c) of the [*Law Admissions Consultative Committee*] Disclosure Guidelines.)

In respect of criminal offending, the effect of rule 18(1) is that an offence which comes within the definition of "excluded offence" in rule 17 is not required to be disclosed. This includes certain offences under the Traffic Act 1987, parking offences, offences the subject of an infringement notice expiated by payment and offences which are spent records pursuant to the *Criminal Records (Spent Convictions) Act 1992*. An applicant may, but need not, disclose such offending.

The Disclosure Guidelines are designed to assist applicants in determining what conduct should be disclosed and the requisite level of detail that should be disclosed. The Disclosure Guidelines need to be read in conjunction with the Act and the Rules. The Disclosure Guidelines, as modified for the Northern Territory, are available on the Court's website.

Applicants are required to consult the Disclosure Guidelines. The affidavit in support of the application for admission requires applicants to acknowledge that they have read, understood and have had regard to the Disclosure Guidelines when making their application and supporting affidavit.

#### **4.1 Nexus and Forum**

In general it is expected that an applicant for admission will apply in the jurisdiction most appropriate to the applicant having regard to, for example, where the applicant is ordinarily resident or where the applicant's qualifications were obtained or according to any other relevant circumstances. If the Board is not satisfied that the Northern Territory is the most appropriate forum for the application it may decline to deal with the application on that ground.

Therefore, if it is not otherwise evident from the applicant's affidavit that the Northern Territory is the most appropriate forum, the supporting affidavit should explain why admission is sought in the Northern Territory.

Without limiting the foregoing, if an applicant has completed the full law degree at Charles Darwin University or the Practical Legal Training course of the College of Law in the Northern Territory, that is considered to be sufficient nexus. As that will otherwise be apparent from the pro forma affidavit, in the usual case an applicant will not need to depose to that in their supporting affidavit.

Depending on the circumstances such as dates and duration, a sufficient period of residence in the Northern Territory will often be sufficient to satisfy the nexus requirement. A sufficient period of employment in the Northern Territory, or future plans to be employed in the Northern Territory also will often be sufficient to satisfy the nexus requirements.

## **5.2 Criminal History Checks**

Until recently, the Board required every applicant to provide an Australian national criminal history check and, in certain circumstances, an overseas criminal history check. Criminal history checks, whether issued by an Australian jurisdiction or an overseas jurisdiction, are now only required where an applicant discloses the commission of criminal offending in their supporting affidavit (paragraph 11 of the pro forma affidavit). In that case, a criminal history check in accordance with the following must be provided.

In respect of any offending committed within Australia, applicants are required to obtain an Australian national criminal check. As the level of disclosure in criminal history checks can vary according to the Australian jurisdiction where the application is made, and sometimes also according to the purpose stipulated on the application, the Board has made special arrangements with SAFE NT to ensure that the Board's specific requirements are satisfied.

For that reason, in respect of offending committed within Australia, the Board will only accept a criminal history check obtained on application to SAFE NT. Further, so that SAFE NT can identify an application as one required for admission purposes and therefore provide the required level of disclosure, the Board requires that the purpose stated on the application precisely be: "NT Supreme Court proceedings for admission as a lawyer".

To verify that the application has been made to SAFE NT and that the correct purpose has been stipulated, the Board requires applicants to depose to that in their supporting affidavit and to annex a true copy of the application for the criminal history check. If it is not apparent from the application that the application was made to SAFE NT, then other documentary evidence such as a receipt issued by SAFE NT, should also be annexed.

SAFE NT accepts applications online and that form of application is acceptable to the Board. Applicants should however ensure that a copy of the application is printed or otherwise obtained so that it can be annexed to their supporting affidavit (paragraph 11 of the pro forma affidavit).

There are different requirements in respect of offending committed outside of Australia. Firstly, where an overseas criminal history check is not in English, the applicant must arrange for a translation of the document by a suitably qualified translator. The translation is to be annexed to the supporting affidavit together with documentary evidence of the qualifications of the translator.

Secondly, in the usual case the Board does not accept overseas criminal history checks issued by private organisations. Only official criminal history checks issued by the government, or an agency of the government, of the jurisdiction to which the criminal history checks relates are acceptable. If compliance with this requirement is not apparent on the face of the overseas criminal history checks, applicants should depose to compliance in their supporting affidavit and annex appropriate documentary verification.

If it is not possible or practicable for an applicant to obtain an official overseas criminal history check, the Board **may** accept a private overseas criminal history check. In that case an applicant should depose to the reason why an official overseas criminal history check could not be obtained and why the Board can be satisfied of the integrity of the alternative provided. Ordinarily, that an applicant has not allowed sufficient time to obtain an official overseas criminal history check alone will not be considered sufficient reason to dispense with this requirement.

### **5.3 Referee's Certificates**

Rule 10(2)(d) requires an applicant to provide two certificates as to the applicant's good fame and character. The certificates are to be annexed to the supporting affidavit (paragraph 8 of the pro forma affidavit). Rule 3(1) sets out the specific requirements for those certificates, in particular the referee must be a person who is of standing in the community and who has known the applicant for at least three years and who is not closely related to the applicant by blood or marriage. The referee should also confirm satisfaction of these requirements in the certificate.

Applicants need to ensure that the certificates they provide comply with the requirements of the rule (paragraph 8 of the pro forma affidavit).

Rule 3(2) sets out the minimum content required of the certificates. Importantly, rule 3(2)(c) provides that referees are to acknowledge any matter that might adversely affect the question of whether the applicant is a fit and proper person to be admitted. Clearly this requires that an applicant has informed the referee of all disclosures which the applicant makes. The referee's certificate should acknowledge the specific disclosures made by an applicant and must acknowledge that the disclosures do not affect their assessment of the fitness of the applicant for admission (see also paragraph 7 of the Disclosure Guidelines).