

# LEGAL PRACTITIONERS ORDINANCE 1977

1129

No. 19 of 1977

An Ordinance to amend the *Legal Practitioners Ordinance*

[Assented to 31 May 1977]

**B**E it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the *Legal Practitioners Ordinance* 1977. Short title
2. The *Legal Practitioners Ordinance* is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance
3. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.\* Commencement
4. Section 5 of the Principal Ordinance is repealed. Repeal of section 5 Definitions
5. Section 6 of the Principal Ordinance is amended—
  - (a) by inserting after the definition of “senior Judge” the following new definition:  
“‘Trust Committee’ means the Legal Practitioners’ Trust Committee established under section 79A;” and
  - (b) by omitting “58” from the definition of “trust moneys” and substituting “55”.
6. Section 34 of the Principal Ordinance is amended by omitting “to the Master”.
7. The Principal Ordinance is amended by omitting the heading to Division 7 of Part VII and substituting “*Division 7—Deposits with the Trust Committee*”. Heading to Division 7
8. The Principal Ordinance is amended by inserting after section 79 the following new sections:  
“79A.(1) There is hereby constituted a body corporate by the name of the Legal Practitioners’ Trust Committee. Incorporation of Trust Committee

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The date fixed was 17 June 1977 (see *Northern Territory Government Gazette* No. 24 of 17 June 1977, page 908).

“(2) The Trust Committee—

- (a) has perpetual succession;
- (b) shall have a common seal; and
- (c) may sue and be sued in its corporate name.

“(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Trust Committee affixed to a document and shall presume that it was duly affixed.

“(4) The Trust Committee shall consist of the Master and 2 legal practitioners appointed by the Council of the Law Society.

“(5) A member of the Trust Committee appointed by the Law Society shall, subject to section 79B, hold office during the pleasure of the Law Society.

“(6) A person is not eligible for appointment as a member of the Trust Committee unless not less than 5 years have elapsed since he was first admitted to practise as a legal practitioner (however described) in a State or Territory and he holds a current unrestricted practising certificate.

“(7) The Master shall be Chairman of the Trust Committee.

“(8) The Trust Committee shall have the following powers:

- (a) to open and operate bank accounts; and
- (b) to do all things that are, in the opinion of that Committee, necessary or convenient for the proper administration of moneys deposited with that Committee in accordance with this Division.

“(9) All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Trust Committee shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any member of the Trust Committee or in such other manner as the Trust Committee from time to time determines.

“(10) The Trust Committee may appoint a person to be the Secretary to the Trust Committee.

Removal of  
member from  
office

“79B.(1) The Court may, on the application of the Master, remove a member of the Trust Committee from office for misbehaviour or incapacity.

“(2) If a member of the Trust Committee—

- (a) becomes bankrupt;
- (b) ceases to be a person referred to in section 79A(6); or

(c) is absent, except on leave granted by the Trust Committee, from 3 consecutive meetings of the Committee, the Court may remove him from office.

“79C.(1) At a meeting of the Trust Committee the Master and one other member constitute a quorum.

Quorum of Trust Committee and voting

“(2) Decisions of the Trust Committee shall be by vote of the majority and, if the vote is evenly divided, the Master shall, in addition to his vote as a member of the Committee, have a casting vote.

“(3) The Trust Committee shall hold meetings at such times and places as the Master directs or that Committee determines.

“79D. The moneys received by the Trust Committee under this Division shall, so far as practicable, be invested by that Committee in any manner in which trust funds may, for the time being be invested under any law in force in the Territory.”

Investments by Trust Committee

9. Section 80 of the Principal Ordinance is amended by omitting “Master” (wherever occurring) and substituting “Trust Committee”.

Legal practitioner to deposit portion of trust moneys with Committee

10. Section 81 of the Principal Ordinance is amended by omitting “Master” (wherever occurring) and substituting “Trust Committee”.

Repayment of deposit

11. Section 83 of the Principal Ordinance is amended—

(a) by omitting “Master” (wherever occurring) and substituting “Trust Committee”; and

(b) by omitting “him” (wherever occurring) and substituting “that Committee”.

Variation of notional amount by Trust Committee

12. Section 84 of the Principal Ordinance is repealed and the following sections substituted:

“84.(1) The Trust Committee shall cause records to be kept showing particulars of all moneys deposited with it in accordance with this Division, of all interest and other income received by it from the investment of those moneys and all payments made by it out of those moneys, and shall cause those records to be audited annually by an auditor who is a registered company auditor within the meaning of the *Companies Ordinance*.

Keeping of records and audit, &c.

“(2) The Trust Committee shall forward a copy of each report of an auditor under this section to the Crown Law Officer.

Payment of  
investment  
income by  
Trust  
Committee

“84A.(1) In this section, ‘investment income’ means moneys received by the Trust Committee representing interest and other income earned on moneys deposited with that Committee in accordance with this Division.

“(2) Subject to this section, the Trust Committee shall, as soon as practicable after the first day of January and the first day of July in each year, pay the whole of the investment income into the Fidelity Fund.

“(3) Notwithstanding sub-section (2), the Trust Committee may at any time during a year pay into the Fidelity Fund the whole or any part of the investment income.

“(4) Where at any time the amount of the Fidelity Fund is greater than 250,000 dollars, the Trust Committee may, with the consent in writing of the Attorney-General given either generally or in a particular case, use up to one half of the investment income—

(a) to assist in the conduct of a scheme for the provision of legal aid; and

(b) to assist and promote legal education and legal research.

“(5) The costs of discharging the functions, and exercising the powers, of the Trust Committee under this Division and the costs of enforcing the rights conferred upon that Committee by this Division shall be paid out of the investment income in priority to any other use of those moneys authorized by this section.”.

Incorporation  
of Fidelity  
Fund  
Committee

**13. Section 86 of the Principal Ordinance is amended—**

(a) by omitting sub-section (1) and substituting the following new sub-sections:

“(1) There is hereby constituted a body corporate by the name of the Legal Practitioners’ Fidelity Fund Committee.

“(1A) The Fidelity Fund Committee—

(a) has perpetual succession;

(b) shall have a common seal; and

(c) may sue and be sued in its corporate name.

“(1B) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Fidelity Fund Committee affixed to a document and shall presume that it was duly affixed.

“(1C) The Fidelity Fund Committee shall consist of the Master and 2 legal practitioners appointed by the Council of the Law Society.”; and

(b) by inserting after sub-section (4) the following new sub-sections:

“(5) The Fidelity Fund Committee shall have the following powers:

- (a) to open and operate bank accounts; and
- (b) to do all things that are, in the opinion of that Committee, necessary or convenient for the proper administration of moneys paid into the Fund.

“(6) All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Fidelity Fund Committee shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any member of the Fidelity Fund Committee or in such other manner as the Fidelity Fund Committee from time to time determines.

“(7) The Fidelity Fund Committee may appoint a person to be the Secretary to the Fidelity Fund Committee.”.

**14.** Section 88 of the Principal Ordinance is amended by inserting after sub-section (2) the following new sub-section:

Quorum of Committee and voting

“(3) The Fidelity Fund Committee shall hold meetings at such times and places as the Master directs or that Committee determines.”.

**15.** Section 89 of the Principal Ordinance is amended—

Fidelity Fund

(a) by omitting sub-section (2) and substituting the following sub-section:

“(2) The Fidelity Fund Committee shall cause records to be kept showing particulars of all moneys held to the credit of the Fidelity Fund, of all interest received by it from the investment of those moneys and of all payments made by it out of those moneys, and shall cause those records to be audited annually by an auditor who is a registered company auditor within the meaning of the *Companies Ordinance*.

“(2A) The Fidelity Fund Committee shall forward a copy of each report of an auditor under this section to the Crown Law Officer.”;

(b) by omitting ‘84(2)’ from sub-section (3)(c) and substituting ‘84A’; and

(c) by omitting sub-section (4) and substituting the following new sub-section:

“(4) The Fidelity Fund Committee may invest any part of the Fidelity Fund in any manner in which trust funds may for the time being be invested under any law in force in the Territory.”.

**16. Section 113 of the Principal Ordinance is amended—**

- (a) by omitting “Master” (wherever occurring) and substituting “Trust Committee”; and
- (b) by omitting “him” (wherever occurring) and substituting “it”.

**17.(1)** Section 115(1) of the Principal Ordinance is amended by omitting “by the Master such fees as are agreed” and substituting “such fees as are agreed with the Master”.

(2) Section 115(3) of the Principal Ordinance is amended by omitting “by the Master”.

**18.** Section 118 of the Principal Ordinance is amended by omitting “The Master may pay to a receiver appointed under this Part out of the Fidelity Fund” and substituting “The Master may direct that a receiver appointed under this Part be paid out of the Fidelity Fund”.

**19.** Section 141 of the Principal Ordinance is repealed and the following section is substituted:

**Regulations**

“141. The Administrator in Council may make regulations not inconsistent with this Ordinance, prescribing all matters that by this Ordinance are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular prescribing matters for or in relation to—

- (a) the manner in which legal practitioners shall deal with trust moneys; and
  - (b) the manner in which an audit of trust moneys shall be carried out.”.
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