

**NTBA CONSTITUTION - INDEX**

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**CONSTITUTION**  
**OF THE NORTHERN TERRITORY**  
**BAR ASSOCIATION**

**Name of the Association**

- 1 The Association shall be known as “The Northern Territory Bar Association Incorporated.”

**Objects of the Association**

2. The objects of the Association shall be:
- 2.1 To represent the interests of independent barristers practising in the Northern Territory;
  - 2.2 To promote understanding and goodwill between independent barristers, the Courts, Government, solicitors and members of the general public;
  - 2.3 To promote the continual legal education of independent barristers;
  - 2.4 To institute and enforce rules of professional conduct which apply to independent barristers;
  - 2.5 To affiliate with the Australian Bar Association and with such other bodies of lawyers as the Association may choose to affiliate with;
  - 2.6 To promote the better understanding of law and the role and functions of independent barristers;
  - 2.7 To promote law reform where it is necessary or desirable to do so;
  - 2.8 To promote and protect the independence of the judiciary;
  - 2.9 To promote and protect the independence of the legal profession;
  - 2.10 To do such other lawful things as the members may consider to be in their best interests or in the best interests of society as a whole.

**Membership**

3. Membership of the Association shall be divided into the following categories:

- 3.1 Life Membership
- 3.2 Ex Officio Membership
- 3.3 Full Membership
- 3.4 Special Membership

### **Life Membership**

- 4. Life Membership may be conferred upon any person who is a Full Member of the Association by a resolution carried at a general meeting.

### **Ex Officio Membership**

- 5. The following persons shall be Ex Officio members:
  - 5.1 The Attorney-General of the Northern Territory if he is a legal practitioner.
  - 5.2 The Solicitor-General of the Northern Territory.

### **Full Membership**

- 6. Full Membership is open to any person who is admitted as a practitioner of the Supreme Court of the Northern Territory of Australia and who complies with the following requirements:
  - 6.1 has a notation on the Roll of Legal Practitioners that he is a local counsel;
  - 6.2 holds a current unrestricted practising certificate;
  - 6.3 pays the required membership fee to the Association;
  - 6.4 signs the Bar Roll kept by the Secretary/Treasurer.

### **Special Membership**

- 7. Special Membership is open to any person who is admitted as a practitioner of the Supreme Court of the Northern Territory of Australia and who:
  - 7.1 has a notation on the Roll that he is a visiting counsel and who:-

- 7.1.1 pays the required fee to the Association;
- 7.1.2 holds a current unrestricted practising certificate;
- 7.1.3 signs the Bar Roll kept by the Secretary/Treasurer.

OR

7.2 is an academic lawyer employed by the University of the Northern Territory who undertakes in writing not to practice as a solicitor, and who:

- 7.2.1 pays the required fee to the Association; and
- 7.2.2 signs the Bar Roll kept by the Secretary/Treasurer.

OR

7.3 holds the position of Director of Public Prosecutions for the Northern Territory of Australia, and who:

- 7.3.1 pays the required fee to the Association;
- 7.3.2 holds an unrestricted practising certificate; and
- 7.3.3 signs the Bar Roll kept by the Secretary/Treasurer.

OR

7.4 is employed by the Crown and practices solely as a barrister, and who:

- 7.4.1 pays the required fee to the Association;
- 7.4.2 signs the Bar Roll kept by the Secretary/Treasurer; and
- 7.4.3 is approved by the Bar Council.

### **Cessation of Membership**

8. A person's membership shall cease if:

- 8.1 He accepts judicial office, (save in the case of life members);
  - 8.2 He no longer holds the qualifications for membership;
  - 8.3 If he fails to pay his membership fees within 60 days of those fees falling due;
  - 8.4 He fails to pay a fine imposed on him in accordance with these articles;
  - 8.5 He is expelled in accordance with Articles 9 or 55.5.6;
  - 8.6 He resigns his membership, provided that a member may not resign his membership if a complaint has been lodged against him pursuant to Article 53 until that complaint has been determined by the Bar Council.
9. A member may be expelled by the Bar Council if he is found guilty of unprofessional conduct or of misconduct by the Bar Council, the Law Society of the Northern Territory, the Legal Practitioners Complaints Committee, the Supreme Court of the Northern Territory, or by any other Superior Court in Australia of which that member is a practitioner, or by any other body in Australia having jurisdiction to hear and determine a charge of unprofessional conduct or misconduct relating to that member.

### **General meetings**

10. All members of the Association may attend and speak at any general meeting of the Association.
11. Only Life Members, Ex Officio Members and Full Members may cast a vote at a general meeting of the Association.
12. A general meeting of the Association may be summonsed by the Bar Council or by the President or by any three members entitled to vote at a general meeting who has or have served written notice thereof upon the Secretary/Treasurer.
13. The Secretary/Treasurer shall upon receipt of a notice summoning a general meeting cause a general meeting to be called by giving written notice thereof within 14 days to all members resident in the Northern Territory.
14. It shall not be necessary to give notice of a general meeting to a member who is not a resident of the Northern Territory.
15. The President shall be the chairman of every general meeting unless the members present

elect another member to be chairman.

16. Except whereby this Constitution a special resolution of members is required, resolutions shall be carried by simple majority and the chairman shall have a deliberative as well as a casting vote.

### **Proxies at General Meetings**

17. A member not able to attend a general meeting of the Association may appoint any other member to be his proxy.
18. A proxy need not be in any particular form, but it must be in writing and signed by the member and tabled at the general meeting.
19. A proxy may direct the proxy holder how to cast a vote, but unless it does so specifically, the proxy holder may exercise a vote for the absent member as he sees fit.

### **Quorum at General Meetings**

20. A quorum for a general meeting of members shall be not less than half of the total number of full members of the Association present in person or by proxy.
21. If after 30 minutes from the scheduled commencement of a general meeting a quorum is not present, the meeting shall be adjourned to a date to be fixed by the Secretary/Treasurer to be held no later than 14 days thereafter. At any such adjourned general meeting there shall be no quorum.

### **Notices of General Meeting**

22. A notice of a general meeting shall be sufficient if it purports to be issued by the Secretary/Treasurer and contains:
  - 22.1 the time, date and place of the meeting;
  - 22.2 an agenda of the business of the meeting.
23. Notice of a general meeting may be served personally, by prepaid post, by e-mail or by facsimile.

### **Voting at General Meetings**

24. Voting shall be by show of hands unless a resolution for a poll is passed in which case voting shall be by secret ballot and the chairman shall act as the returning officer and declare the poll.

### **Annual General Meetings and Office Bearers**

25. There shall be a general meeting of all members of the Association, called the Annual General Meeting, held in the month of September each year.
26. At the Annual General Meeting the President shall present his report to the members on the affairs of the Association and the Treasurer shall table the accounts of the Association for approval.
27. At the Annual General Meeting all offices shall be declared vacant and the Immediate Past President, or in his absence a member elected from the floor by the members present shall take the chair to conduct elections of office bearers for the forthcoming year.
28. Except for the position of Special Members Representative who shall be elected by all members, only Life Members, Ex Officio Members and Full Members may participate in a vote for the election of office bearers.
29. The office bearers of the Association shall be and shall be elected in the following order:
  - 29.1 President
  - 29.2 Secretary/Treasurer
30. At the conclusion of the election of office bearers the President shall resume the chair and conclude the business of the meeting.

### **Membership fees**

31. Membership fees shall be paid annually by all members except Life Members and Ex Officio Members and shall fall due on the day immediately following the conclusion of the Annual General Meeting unless the members at the Annual General Meeting select another date upon which those fees shall fall due.
32. The amount of the annual membership fees shall be fixed by the members at the Annual General Meeting who may fix fees of differing sums for full members, for special members, and/or for the various kinds of special members according to their qualifications for special

membership.

33. Should the members at the Annual General Meeting fail to fix the annual membership fees or should the Annual General Meeting fail to be held in the month of September for any reason, the power of the members to fix membership fees may be exercised by the Bar Council.

### **Bar Council**

34. 34.1 There shall be a Bar Council consisting of:

- President;
- Immediate Past President;
- Secretary/Treasurer;
- a representative appointed by each established chambers with a membership of more than 1 full resident member of the Association, and with each established chambers that has a membership greater than 4 full resident members of the Association being entitled to appoint an additional representative for each group of 4 full resident members; and
- one representative appointed by the special members of the Association.

34.2 Each representative of established chambers may appoint a proxy from that chambers.

34.3 The Bar Council shall elect a Vice-President from its members.

34.4 Subject to any general or specific direction given by a resolution of a general meeting of the Association, the Bar Council shall have the sole management of the affairs and concerns of the Association.

34.5 The Bar Council shall call a general meeting of the Association at least twice a year and shall present to that general meeting a report of its conduct of the affairs of the Association.

35. Meetings of the Bar Council shall be held regularly and shall be called by the Secretary/Treasurer at the request of any other member of the Bar Council.

36. The President, or in his absence the Vice-President, shall chair each meeting of the Bar Council.
37. At each meeting of the Bar Council:
  - 37.1 The chairman shall have a deliberative as well as a casting vote.
  - 37.2 Each member of the Bar Council shall have the right to exercise a vote.
  - 37.3 A member of the Bar Council not physically present may not appoint a proxy but may be present by telephone.
  - 37.4 If the same person occupies more than one position as an office bearer, he may cast only one vote.
  - 37.5 All resolutions shall be carried by simple majority.
  - 37.6 Four members of the Bar Council shall constitute a quorum.
  - 37.7 A member of the Bar Council who is a representative of a chambers or the special members may appoint another member the chambers he or she represents or a special member respectively to attend and vote on that member's behalf.
38. The Bar Council may amend the rules of professional conduct known as the Bar Rules, and any such amendment shall have full force and effect until the next general meeting whereupon it shall either lapse or be ratified by all members.

### **Casual Vacancies**

39. An office bearer shall cease to hold office upon his resignation or upon his membership ceasing.
40. In the event of a vacancy in an office bearer, the Bar Council may appoint any member to hold that office temporarily until the next general meeting of the members is held at which time elections for that office, and for any other office which may fall vacant as a result of that election, shall be held.

### **Powers of Officers**

41. Whereby this Constitution a power or function is vested in a particular officer who is absent or is unable or unwilling to act, the Bar Council may appoint a person who is a full member

to act temporarily in that office and to exercise the powers or functions of that office.

### **Minutes**

42. The Secretary/Treasurer shall keep minutes of all general meetings and of the meetings of the Bar Council.
43. The Minutes of a meeting shall be presented at the next meeting for confirmation.

### **Bar Roll**

44. There shall be a register of members known as the Bar Roll which shall be kept in the custody of the Secretary/Treasurer or his nominee.
45. The Secretary/Treasurer shall ensure that the Bar Roll is duly maintained.
46. If a complaint against a member is proved (whether by the Bar Council, the Law Society, the Court, or any other body having jurisdiction over barristers to hear and determine a charge of unprofessional conduct or of misconduct), the Secretary/Treasurer shall make a notation on the Bar Roll recording particulars of the charge and the penalty (if any) imposed.
47. The Secretary/Treasurer shall note on the Bar Roll particulars of any event affecting a member's right to membership.

### **Bank Accounts**

48. The Association shall keep such bank account or other investments as the Bar Council shall determine.
49. Unless otherwise determined by the Bar Council all cheques drawn on the Association's bank account shall be signed by at least two members of the Bar Council.

### **Powers of Delegation and Special Committees**

50. The Association or the Bar Council may delegate to any office bearer any specific functions or tasks as they see fit.
51. The Association or the Bar Council may constitute and appoint such special committees to carry out such tasks as they see fit.

### **Complaints and Discipline**

52. Any person may lodge a complaint that a member has been guilty of unprofessional conduct or of professional misconduct.
53. A complaint shall be in writing and shall specify with reasonable particularity the nature of the charge against the member and shall be lodged with the Secretary/Treasurer, or in his absence, with any other member of the Bar Council.
54. The Bar Council shall consider the complaint and if it is of the opinion that the complaint has no prima facie case, it shall dismiss the complaint.
55. Unless a complaint is dismissed in accordance with rule 54, the Bar Council shall refer to a copy of the complaint to the member and:
  - 55.1 The Bar Council may request the member to provide a written answer to the complaint. If no answer is forthcoming within the time specified by the Bar Council, it may regard the complaint as being proved.
  - 55.2 The Bar Council may decide to hear and determine the complaint itself.
  - 55.3 The Bar Council may decide to refer the complaint to the Law Society of the Northern Territory, or, if that has already been done and the Bar Council is dissatisfied with the Law Society's disposal of the matter, the Bar Council may cause a charge of professional misconduct to be laid before the Legal Practitioners Complaints Committee.
  - 55.4 If the Bar Council hears and determines the complaint itself, it shall give the complainant and the member a reasonable opportunity to present their respective cases and in all respects shall comply with the rules of natural justice, but it shall not be bound by the rules of evidence and may inform itself as it sees fit as to the merits of the issues involved.
  - 55.5. If the Bar Council, having heard a complaint itself, determines that the complaint is proved, it may:-
    - 55.5.1 dismiss the complaint as being trivial;
    - 55.5.2 administer an admonition to the member;
    - 55.5.3 administer a severe admonition to the member;

- 55.5.4 order the member to pay a fine not exceeding \$500 to the Association within such time as it may fix;
- 55.5.5 order the member to be suspended as a member for such time as it sees fit;
- 55.5.6 order a member to be expelled;
- 55.5.7 make any combination of orders 55.5.3 to 55.5.6 as it sees fit;
- 55.5.8 decide to proceed in accordance with Article 55.3; or
- 55.5.9 refer the matter to the Supreme Court of the Northern Territory.

### **Amendments to this Constitution**

- 56. This Constitution may be amended only by a special resolution of members entitled to vote at a general meeting carried by a two thirds majority passed at a general meeting of the members.

### **Winding Up**

- 57. The Association may be wound up at a general meeting of the members called specifically for that purpose.
- 58. At a meeting called to wind up the Association no other business may be raised until the motion to wind up the Association has been defeated or has lapsed or been withdrawn.
- 59. A motion to wind up the Association may not be carried unless passed by a special resolution of two thirds of the members entitled to vote at a general meeting.
- 60. Upon a motion to wind up the Association being carried the members entitled to vote at general meetings may determine by an ordinary resolution what shall become of the assets of the Association. If no such motion is passed the assets shall be held by the Secretary/Treasurer as Trustee for members and the Secretary/Treasurer shall liquidate those assets and distribute them equally amongst all members as soon as is reasonably practical.

### **By-laws, Rules and Guidelines**

- 61. The Association may from time to time at a general meeting:

61.1 make by-laws, not inconsistent with this Constitution, prescribing matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Constitution;

and in particular:

61.2 prescribing professional conduct rules for barristers in their practice as barristers;  
and

61.3 prescribing guidelines for the assistance of barristers in their practice as barristers.