



Statutory Rules 1981 No. 323¹

**Australian Capital Territory Supreme Court
(Admission of Practitioners) Rules**

WE, Judges appointed under sub-section 7 (1) of the *Australian Capital Territory Supreme Court Act 1933*, hereby make the following Rules of Court under section 28 of that Act.

Dated 4 November 1981.

R. A. BLACKBURN
Chief Judge

XAVIER CONNOR
Judge

J. KELLY
Judge

B. J. PROCTOR
Registrar

Citation

1. These Rules may be cited as the Australian Capital Territory Supreme Court (Admission of Practitioners) Rules.

Incorporation of Supreme Court Rules

2. These Rules are incorporated and shall be read as one with the Supreme Court Rules and, unless the contrary intention appears, expressions used in these Rules have the same meanings as in the Supreme Court Rules.

Interpretation

3. (1) In these Rules, unless the contrary intention appears—

“admission” means admission to practise under the Ordinance;

“Law Society” means the body corporate constituted by section 6 of the Ordinance by the name “The Law Society of the Australian Capital Territory”;

“notice of motion” means notice of motion for admission;

“Supreme Court Rules” means the Rules of the Supreme Court of the Australian Capital Territory, as in force from time to time;

“the Ordinance” means the *Legal Practitioners Ordinance* 1970 of the Territory.

(2) Strict compliance with a form set out in the Schedule is not necessary and substantial compliance is sufficient.

Admission days

4. Applications for admission shall be heard—

(a) on the second Tuesday in February, May, August and December; and

(b) on such other days as the Chief Judge appoints.

Application to be by motion

5. (1) An application for admission shall be by motion.

(2) Notice of motion for admission shall be in accordance with Form 1 in the Schedule.

Address for service

6. (1) The address to be specified in a notice of motion as the address for service of the applicant shall be an address in the Territory not more than 5 kilometres from the office of the Registrar.

(2) An address for service specified in a notice of motion shall be the address for service of the applicant for the purposes of the Supreme Court Rules.

Notice of motion and affidavits to be filed and served

7. (1) A notice of motion and all affidavits intended to be used in support of the motion shall be filed not later than 14 days before the day specified in the notice for the hearing of the motion.

(2) A copy of a notice of motion and of each affidavit intended to be used in support of the motion shall be served on the Law Society not later than 14 days before the day specified in the notice for the hearing of the motion.

Affidavits in support of motion

8. (1) A motion for admission shall be supported by the affidavit of the applicant and by not less than 3 affidavits of character.

(2) An applicant for admission shall, in his affidavit—

- (a) state whether the applicant has ever been convicted in Australia or elsewhere of an offence;
- (b) if the applicant has been so convicted, set out particulars of the offence and the court by which, and the date on which, the applicant was so convicted; and
- (c) state whether or not there are any other matters relevant to the fitness of the applicant for admission.

(3) For the purposes of this rule, a finding, in a prosecution for an offence, that the offence has been proved shall, notwithstanding that a conviction is not entered, be taken to be a conviction.

(4) An affidavit of character shall—

- (a) state the period during which, and explain the circumstances in which, the deponent has known the applicant for admission;
- (b) state whether there is or has been any business or professional relationship between the deponent and the applicant, and if so, explain the nature of such relationship;
- (c) state whether the deponent is related to the applicant by blood or marriage; and
- (d) state the opinion of the deponent regarding the fame and character of the applicant.

(5) The Court may, if it thinks the circumstances so warrant, direct that a motion be supported by such evidence as to the fame and character of the applicant, in addition to the affidavits required by sub-rule (1), as is specified in the direction.

Proof of satisfactory service under articles, &c.

9. (1) Where, for the purpose of establishing his entitlement to apply for admission, an applicant intends to rely upon service under articles of clerkship, the applicant shall file and serve, with the notice of motion, an affidavit by each barrister and solicitor to whom such service was rendered.

(2) An affidavit for the purpose of sub-rule (1) shall be in accordance with Form 2 in the Schedule.

(3) Where, for the purpose of establishing his entitlement to apply for admission, an applicant intends to rely upon completion of a course of legal education prescribed for the purposes of sub-paragraph 10 (2) (b) (ii) of the Ordinance, the applicant shall annex to his affidavit the certificate issued for the purpose of sub-section 10 (3) of the Ordinance in relation to the applicant.

Objection by Law Society

10. (1) Where—

- (a) a person has served a notice of motion on the Law Society; and
- (b) the Law Society intends to object to the admission of the person,

the Law Society shall, not less than 4 clear days before the day specified in the notice for the hearing of the motion, serve on the person—

- (c) notice in writing of its intention so to object and the grounds upon which it will so object; and
- (d) a copy of every affidavit that the Law Society intends to use in support of its objection.

(2) Where the Law Society serves notice upon a person for the purpose of sub-rule (1), the Law Society shall file a copy of the notice together with the affidavit or affidavits it intends to use in support of its objection.

Appearance by Law Society

11. The Law Society may, of its own motion, and shall, if requested by the Court, appear and be heard on the hearing of an application for admission, otherwise than for the purpose of objecting to the admission of the applicant.

Service on Law Society

12. A document may be served upon the Law Society—
- (a) by delivering the document to the Secretary of the Society; or
 - (b) by leaving the document at the office of the Society with a person apparently employed by the Society.

Applicant's duty of frankness

13. Notwithstanding that an applicant for admission has complied with the requirements of these Rules, the applicant shall bring to the attention of the Court any matter that is relevant to his fitness for admission to practise.

Power of Court to dispense with compliance with Rules

14. Subject to the Ordinance, the Court may dispense with compliance with any of these Rules on such terms (if any) as the Court thinks just.

Application

15. These Rules do not apply to or in relation to an application for admission made before the commencement of these Rules and pending at that commencement.

SCHEDULE—continued

- (b) the applicant was absent from duty by reason of illness for periods amounting, in the aggregate, to _____ ;
- (c) the applicant was absent from duty for other reasons for periods amounting, in the aggregate, to _____

*5. With my consent, the applicant, for the purpose of gaining additional experience, was employed in the office of _____ for the period _____ . I am informed by _____ and verily believe that the service of the applicant during that period was satisfactory.

6. Having regard to the applicant's service as my clerk, I am of the view that the applicant is a fit person to be admitted to practise as a barrister and solicitor.

*7. I bring to the attention of the Court the following matters that are, in my opinion, relevant to the question whether the applicant is a fit person to be admitted to practise as a barrister and solicitor:

*8. On the _____ day of _____ 19 _____ , the above-mentioned articles of clerkship were assigned to (*full name of assignee*).

9. Throughout the period during which the applicant served as my clerk, I continued to practise as a barrister and solicitor in the Territory and to be the holder of an unrestricted practising certificate under the *Legal Practitioners Ordinance 1970*.

OR

9. Throughout the period during which the applicant served as my clerk, I continued to occupy the office of Crown Solicitor for the Commonwealth of Australia (*or* Deputy Crown Solicitor for the Australian Capital Territory).

Sworn by the above-named deponent at _____ on the _____ day of _____ 19 _____ , before me: _____

* Omit if not appropriate.

NOTE

- 1. Notified in the *Commonwealth of Australia Gazette* on 10 November 1981.