



**LEGAL PROFESSION BOARD OF
TASMANIA**

RULES FOR HEARINGS OF

THE BOARD (2010)

The Legal Profession Board makes the following rules under section 597 of the *Legal Profession Act 2007* (the Act).

These rules are to be read in conjunction with Schedule 1 of the Act – Provisions with respect to hearings of Board under Chapter 4.

1. Procedural directions

- (1) The Board may, at any stage of the proceedings, either of its own motion or at the request of a party to the proceedings, give any directions or make any orders as to the procedure to be followed in relation to the proceedings the Board considers appropriate.
- (2) The Board may hold a directions hearing for the purpose of giving directions or making orders under sub rule (1).
- (3) A directions hearing of the Board is to be held in private, unless the Board orders otherwise.
- (4) A quorum at a directions hearing of the Board is constituted by any single member of the Board.
- (5) The Board may include notice of a directions hearing in a notice of hearing.
- (6) The Board may give directions as to the manner in which a directions hearing is to be conducted, where the directions hearing is to be held and the persons who are to attend it.
- (7) A party may make a request under sub rule (1) by –
 - (a) sending a letter to the Executive Officer setting out the directions or orders sought and the grounds for those directions or orders; and
 - (b) sending a copy of the letter to all other parties.
- (8) Without affecting the generality of sub rule (1), the Board may give directions, or make an order, in respect of any one or more of the following:
 - (a) the simplification of, or more adequate definition of, any issues;
 - (b) any action which may reduce the costs of a witness attending a hearing;
 - (c) limiting the number of witnesses;
 - (d) the preparation and service of affidavits;
 - (e) a timetable for taking any step or complying with any order or direction in the proceeding;

- (f) the determination of an issue of fact or law before any other issue;
- (g) the resolution of issues;
- (h) the revocation or variation of a previous direction or order made under this rule.

2. Form of summons

- (1) A summons under sch.1 cl.5 (3) (a) of the Act, is to be in accordance with Form 1 of these rules and served on the person required to attend at least 7 days prior to the date of required attendance.

3. Form of requirement to produce documents

- (1) A requirement under sch.1 cl. 5 (3) (e) of the Act is to be in accordance with Form 2 of these rules and served on the person required to produce, or authorise another person to produce, any document at least 7 days prior to the date upon which the production is required.

4. Evidence by affidavit

- (1) Pursuant to Sch.1 cl. 5 (3) (c) of the Act, the Board may direct that evidence be taken by affidavit.
- (2) The Board may specify a timetable for the filing and serving of any affidavit and for giving notice to cross-examine the deponent of the affidavit.
- (3) A party wishing to cross-examine the deponent of an affidavit may, without any time specified by the Board under sub rule (2), serve on the party who filed the affidavit a notice requiring the deponent to attend the hearing for cross examination.
- (4) If the Board does not specify a time for service of a notice requiring the deponent to attend the hearing, the notice must be served a reasonable time before the deponent is required to attend.

5. Written submissions

A party to a hearing of the Board giving a written submission is to serve a copy of the submission on all other parties to the hearing and the Executive Officer of the Board not less than 7 days before the date fixed for the hearing of the Board.

6. Notice of agreement

- (1) The complainant or the practitioner to whom the hearing relates may file a notice of agreement with the Executive Officer of the Board if the parties to the application agree to a settlement of the complaint.

- (2) A notice of agreement is to set out the terms of the agreement and the complainant's certification that he or she does not wish to proceed, or proceed further, with a hearing of the Board.
- (3) On the filing of a notice of agreement, the Board is to determine whether or not to proceed, or proceed further, with a hearing.

7. List of documents

- (1) A party served with a notice of hearing under sch.1 cl.5 (1), is to deliver a list of all the documents on which the party intends to rely at the hearing to the Executive Officer and every other party to the hearing.
- (2) A party to a hearing must deliver the list at least 7 days before the date fixed for the hearing.
- (3) Any party to a hearing may inspect any of the documents in the list delivered to that party.
- (4) A party delivering a list is to provide, at a reasonable cost, a copy of any document in the list if requested to do so by the Board or any other party to a hearing.
- (5) A document not listed as required by this rule is not to be relied upon at a hearing except with the unanimous permission of all members of the Board participating at the hearing.

8. Recording of Hearings

- (1) The Executive Officer of the Board is to cause to be made a recording of every hearing, other than a directions hearing, before the Board.
- (2) The Board may direct the Executive Officer of the Board to cause to be made a recording of a directions hearing.
- (3) The Executive Officer is to make a transcript of the recording of the hearing available to a relevant party;
 - (a) on the request of the party; and
 - (b) on payment of the cost of production of the transcript. Such cost to be determined by the Board at its discretion.

9. Board's Discretion

- (1) Nothing in these rules is to be taken as limiting the discretion conferred on the Board by Sch.1 cl.5 (5) of the Act.

FORM 1

Complaint Reference:

SUMMONS TO GIVE EVIDENCE

.....Complainant(s)

BETWEEN:

.....Practitioner(s)

TO:.....

Pursuant to Schedule 1 Clause 5 (3) (a) of the *Legal Profession Act 2007*, you are required to attend before the Board on the hearing of this complaint as follows:

Date:.....;

Time:.....;

Location:.....;

and at any other times and places as the Board may direct until you are relieved from any further attendance, to give evidence material to the complaint.

DATED:.....

SIGNED:.....(authorising Board Member)

Notes:

Schedule 1 Clause 5 (6) of the *Legal Profession Act 2007* provides that a person who fails without reasonable excuse to attend a hearing of the Board as required by the Board is guilty of an offence and may be fined up to 10 penalty units (\$1000.00).

FORM 2

Complaint Reference:

REQUIREMENT TO PRODUCE DOCUMENTS

.....Complainant(s)

BETWEEN:

.....Practitioner(s)

TO:.....

Pursuant to Schedule 1 Clause 5 (3) (e) of the *Legal Profession Act 2007*, the Board hereby requires you to;

- a) produce to the Board the following documents or records or class of documents or records by.....: or
- b) authorise..... to produce the following documents or records or class of documents or records by.....:
 - (1)
 - (2)
 - (3)

DATED:.....

SIGNED:.....(authorising Board Member)

Notes:

Schedule 1 Clause 5 (6) of the *Legal Profession Act 2007* provides that a person who fails without reasonable excuse to produce or authorise another person to produce any document when required by the Board to do so is guilty of an offence and may be fined up to 10 penalty units (\$1000.00).