New Zealand Law Society

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14 March 2003

MRA Review
Australian Productivity Commission
PO Box 80
Belconnen ACT 2616
AUSTRALIA

By email: mra@pc.govt.au

Trans-Tasman Mutual Recognition Arrangement – review of progress

Thank you for the opportunity to comment on the arrangement. Our submission is enclosed, together with the various attachments referred within.

If you require any further information please contact me at the New Zealand Law Society.

Yours faithfully

Rae Mazengarb
Reform Consultant

SUBMISSION

To the Productivity Commission
On the operation of the
Trans Tasman Mutual Recognition Arrangement (TTMRA)

As a general comment the arrangements appear to have eased the process for admitting into New Zealand lawyers who have previously been admitted in Australian states and territories that have implemented TTMR. Preliminary observation indicates that the arrangement has increased the professional mobility of practitioners on both sides of the Tasman. The longer-term implications of the new arrangements are not yet evident, however, and may not be for some years.

Under the Law Practitioners Act 1982 it is the 14 district law societies rather than the New Zealand Law Society that issue annual practising certificates. In addition to the law societies, the TTMRA processes for lawyers involve the High Court for admission. In preparing this reply we have invited and incorporated comments from the district societies and from the Wellington and Auckland High Court registries.

Experience to date indicates that Australian lawyers seeking to practise in New Zealand are finding the process under the TTMR regime TTMR regime to be simple and straightforward. Similarly, we have had no reports of New Zealand lawyers having any difficulty with the processes in the Australian states that participate in the TTMR regime.

We have not attempted to quantify the magnitude of the costs and benefits but our understanding is that compliance costs are not significant.

I **attach**, for your information, copies of information we provided to the district law societies to assist them in the discharge of their functions in respect of the TTMR regime. You will see that we had to undertake careful work on the question of equivalency in relation to practitioners from Australian states where the professions of barrister and solicitor are entirely separate.

A noted early implementation issue was that, in order to advise inquirers, the Society had to keep track of which states and territories of Australia had implemented TTMR and when. It would have been useful to have received notification as the relevant legislation of each of the states/territories of Australia came into effect. As we understand it, only Western Australia is not not a participating jurisdiction.

As to difficulties in practice, three examples are highlighted below. They have a common theme, namely the difficulties that may arise when a person registered for one purpose in one country uses the TTMR legislation to obtain registration in the other country and then endeavours to use the latter registration to alter the nature or scope of the former registration.

Practice on one's own account

To practise law in New Zealand one must have been admitted as a barrister and solicitor, and must hold a current practising certificate. However, if one wants to practise as a solicitor on one's own account (that is, as a sole practitioner or a partner in a law firm) there are additional requirements (experience, training, approval), set out in section 55 of the Law Practitioners Act 1982. There are, therefore, 3 modes of practice:

- employed solicitor (prerequisite: admission)
- barrister sole (prerequisite: admission)
- solicitor on own account (prerequisite: approval under s.55).

The Society's general approach is that Australian lawyers admitted in New Zealand under TTMR and holding New Zealand practising certificates are entitled to practise law here, but are not entitled to practise on their own account unless they meet the additional requirements of s.55 (see pages 6 – 7 of circular to district law societies of 27.8.98, attached).

An early case neatly illustrates the point. A lawyer who was first admitted in New Zealand, and held a practising certificate here as a barrister sole, was then admitted as a legal practitioner in NSW under TTMR, but did not take out a practising certificate there. He subsequently applied to the Otago District Law Society ("ODLS") under s.19 of the TTMR Act for a practising certificate as a solicitor on his own account. His application was declined because (a) contrary to his assertions, he was not entitled to practise on his own account in NSW, and (b) he did not meet the requirements of s.55. He then applied to the ODLS for leave to practise on his own account under s.55: that application was declined. He commenced proceedings for judicial review of the ODLS's decisions. The ODLS counterclaimed for a series of declarations and an injunction relating to the lawyer's status and entitlement to practise under the TTMR Act and the Law Practitioners Act. In the end the lawyer discontinued his application for review and the ODLS obtained the declarations and injunction which it had sought (oral judgment of Chisholm J in *Randle v Otago District Law Society*, delivered on 16 November 1999, and the formal order of the Court dated 22 November 1999).

Issue of practising certificate

Section 58 of the Law Practitioners Act provides that a New Zealand-admitted practitioner who has not held a practising certificate here in the previous two years must give at least 2 months notice of his or her intention to apply for one. The relevant district law society must not authorise the issue of a certificate unless it is satisfied that the practitioner is of good character and a fit and proper person to practise.

In one case a lawyer, originally admitted in New Zealand but having practised in Australia for several years, sought to practise in New Zealand again by registering under the TTMR regime. In fact he had been suspended from practice in Australia, and notice of that suspension was received before his application under TTMR had been dealt with. This case illustrates both an attempt to abuse the system and a reassurance that the checks and balances work.

Jurisdiction hopping

Because in both Australia and New Zealand the TTMR processes for lawyers involve more than one body (the courts for admission, the law societies/bar associations for the issue of practising certificates) it is difficult to obtain comprehensive statistics on the numbers using the TTMR processes.

Most of the incoming applications have been processed in the High Courts at Auckland and Wellington. The High Court at Wellington for a period did not record the TTMRA admissions separately, so the historical records are incomplete. However 2 applications were processed in 2002. The High Court at Auckland provided the following figures: 15 (2000); 19 (2001); 16 (2002).

Few applications had been dealt with in Christchurch since the inception of the TTMRA and the Otago District Law Society reported mainly out-going activity as practitioners sought work in Australia.

There is an anecdotal suggestion that the TTMR regime may allow jurisdiction hopping, that is, using TTMR registration to support applications for admission in other jurisdictions that treat New Zealand-admitted applicants more favourably than Australian-admitted applicants or vice-versa.

The Society is aware that in Auckland a number of applications for admission have been made by Australian practitioners with no current intention to practise in New Zealand. Indeed of the 16 admitted last year under TTMRA just 5 applied for and were issued practising certificates. It was reported that at least some of those were seeking admission in New Zealand to assist their path to qualifying in Ireland. It appears that while there is no direct admission to practise in Ireland for either NZ or Australian qualified lawyers, NZ-admitted lawyers can shortcut the requisite training/study process, particularly if they are relatively recent graduates. New Zealand-admitted lawyers are eligible to take the Qualified Lawyers Transfer Test, while Australian lawyers are required to undertake a full training process or at least seek an exemption from some of it, which could involve a traineeship, further examinations and vocational course. Hence it is advantageous for someone from Australia wishing to qualify in Ireland to be admitted in New Zealand first.

This may not have been the intended result of the TTMR arrangement. It is a moot point as to whether moves could, or should, be taken to prevent this occurring.

Simultaneous admission – monitoring and jurisdictional issues for the future

As more practitioners consider the benefits of simultaneous admission and seek to hold practising certificates in two or more jurisdictions, it will become increasingly important for the regulatory bodies of all parties to the arrangement to maintain and exchange data relating to practitioners who have been disciplined. Currently district law societies in New Zealand obtain certificates directly from the equivalent Australian law society of bar association in order to ensure that the practitioner is holding a current practising certificate in the Australian jurisdication and that there are no outstanding complaints or disciplinary matters. However, while there is a good deal of on-going information exchange amongst the Australian states, there does not appear to be a reliable trans-Tasman system which would alert, for example, the New Zealand regulator if a practitioner entitled to practise in both jurisdictions was disciplined by an Australian regulator. This is an issue that we need to work to address.

Even if a regulator were alerted to disciplinary action taken in another jurisdiction against a practitioner with simultaneous practising rights it is not clear if that regulator would be empowered to bring its own disciplinary action against the practitioner by virtue of the disciplinary action in the other jurisdiction. One argument is that the practitioner's right to practise in the subsequent jurisdiction stems directly from the admission in the first; any action that curtailed or negated that original right to practise must necessarily curtail or negate the right to remain admitted in the subsequent jurisdiction. That point may well be tested at some stage in the future and might need to be provided for specifically in the legislation empowering the regulator to act in each case.

Overall, no major problems have been reported by district law societies in the operation of the arrangement.

March 2003

New Zealand Law Society

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NZ / 1998 / 34
27 August 1998

The Secretaries, all District Law Societies

Copies for information:
Operations Support Manager, Department for Courts, Wellington
Mr Graham Boxall, Senior Adviser, Ministry of Commerce, Wellington
Convener, Members and Secretary, NZLS Admissions and Credentials Committee
Mr Douglas White QC

Trans-Tasman Mutual Recognition Act 1997 [TTMRA]
Further Memorandum for District Law Societies

1 NZLS Memorandum to District Law Societies NZLS / 1998 / 16 dated 20 April 1998 provided guidance to those Societies on their role under the TTMRA. Since then a number of issues have been raised by members of the Board of the New Zealand Law Society [NZLS]which the Board has decided should be clarified in this further memorandum. The guidelines for District Law Societies, the draft notice for Australian law practitioners seeking registration under s 19 of the Trans-Tasman Mutual Recognition Act, and the table of occupational equivalence for the purposes of the issue of practising certificates have also been revised in light of further advice received by the Board. Copies of these are **attached**.

2 In considering the issues it is important to bear in mind that the purpose of the TTMRA is to enable persons who are currently "registered" for an occupation in Australia, to be "registered" for the "equivalent occupation" in New Zealand. This purpose is achieved by requiring the relevant New Zealand local registration authority (ie the body responsible for registering persons in the equivalent occupation) to grant registration to such persons on receipt of the prescribed notice and compliance with the relevant statutory formalities.

3 The following features of the legislation should perhaps be emphasised:

3.1 It creates a new ground for registration in each occupation. It does not replace existing grounds for registration: see s 38. As far as law practitioners are concerned, the existing grounds for registration are expressly retained by s 88 of the TTMRA which enacts s 44 of the Law Practitioners Act 1982 [LPA].

3.2 At the same time, however, in creating the new ground for registration, the TTMRA prevails over the existing law relating to registration in the absence of any express provision to the contrary: see s 5(1). This makes it clear that persons who apply for registration under the new regime will need to meet the requirements of the legislation before they will be entitled to be registered here.

3.3 The new regime is based on the concept of equivalence of occupation: s 14. An "equivalent occupation" is one in which "the activities authorised to be carried out under each registration are substantially the same": see s 14(1). NZLS has been advised that in both New Zealand and Australia the occupation of barrister is not equivalent to the occupation of solicitor or barrister and solicitor because a barrister is not authorised to carry out "substantially the same" activities as a solicitor or a barrister and solicitor. In certain Australian jurisdictions a barrister may not, and is not qualified to, handle trust or controlled monies or act as a conveyancer, whereas a solicitor is able to do so. In other Australian jurisdictions persons practising as barristers are qualified to do so, but do not because they choose to practise as barristers only.

3.4 The new regime is implemented through mutual recognition of "registration". The TTMRA makes it clear that current "registration" in a participating Australian jurisdiction is a pre-requisite to registration in New Zealand: see ss 17(1), 19(1), 20(1), 21(3), 22(1) and 28(1)(e). In the case of law practitioners, "registration" covers both admission and the issue of practising certificates: see definitions of "local registration authority" in s 2(1) and "registration" in s 4(2). For those applying under the new regime the TTMRA will apply to both steps. This means that applicants for practising certificates will need to satisfy the District Law Society concerned that they hold a current, valid practising certificate for the equivalent occupation in a participating Australian jurisdiction at the time of their application and the grant of their initial registration.

Issue of practising certificates

4 An Australian law practitioner who is admitted as a barrister and solicitor of the High Court of New Zealand under the TTMRA is not automatically entitled to the issue of a practising certificate of choice by the District Law Society concerned. This is because District Law Societies are not "mere rubber stamps" when it comes to the exercise of their responsibilities as "local registration authorities" under the TTMRA. The TTMRA imposes a range of significant obligations on District Law Societies in their capacity as local registration authorities: see ss 20-23, 33, 35, 36, 43(3), 53(1) and 70. The important point is that District Law Societies in their capacity as "local registration authorities" under the TTMRA have acquired a new series of statutory responsibilities over and above those contained in the LPA. And the new regime will prevail over the existing law relating to registration in the absence of any express provision to the contrary: s 5(1). There is no provision to the contrary in either the LPA or the TTMRA qualifying or modifying the new responsibilities of District Law Societies as local registration authorities in respect of the issue of practising certificates.

5 The principal responsibility of a District Law Society in its capacity as a "local registration authority" under the TTMRA is to deal with notifications from Australian law practitioners made under s 19. In each case it will be necessary for the District Law Society, on receipt of such notification, to decide whether to grant, postpone or refuse "registration" under ss 20-22. In making that decision in each case the District Law Society will need to consider whether the Australian practitioner seeking "registration" complies with the ground referred to in s 17(1): see ss 19(1), 20(1)(a), 21 and 22. The ground referred to in s 17(1) is that -

> "An individual seeking registration ... is registered in an equivalent occupation in an Australian jurisdiction."
> (emphasis added)

6 When the relevant definitions of the expressions "registration", "registered", "equivalent occupation" and "Australian jurisdiction" are taken into account, it is apparent that in each case the District Law Society will need to be satisfied that the Australian law practitioner who is seeking "registration" (ie a practising certificate as a barrister or as a solicitor or as both) is authorised (by admission and the issue of a current practising certificate or its equivalent) to practise in the equivalent occupation (ie as a barrister or as a solicitor, or as both) in a participating Australian state or territory. The reference in s 17(1) to "an Australian jurisdiction" has been emphasised to highlight the point that the focus for the District Law Society will be on the applicant's Australian registration and not on the fact that the applicant will also have been admitted as a barrister and solicitor of the High Court of New Zealand under ss 44(4) and 46(4) of the LPA.

7 When a District Law Society decides that it is satisfied that an Australian law practitioner "seeking registration" in New Zealand is admitted and issued with a

current practising certificate or its equivalent in a participating Australian jurisdiction to practise as a barrister or as a solicitor or as both then, subject to compliance with the other requirements of ss 19-22, the District Law Society will grant "registration", ie issue a practising certificate for the appropriate equivalent occupation, ie a practising certificate as a barrister or as a solicitor or as both. The appropriate equivalent occupation will be the one in respect of which the Australian law practitioner is seeking a practising certificate and in respect of which the lawyer is authorised to practise in the Australian jurisdiction. An Australian barrister who is not authorised to practise as a solicitor will not be entitled to the grant of a practising certificate as a solicitor (or as a barrister and solicitor) because those occupations are not equivalent occupations: see para. 3.3 above and the **attached** table of occupational equivalence.

8 The provisions of s 57(1) of the LPA relating to the issue of practising certificates by District Law Societies should be read consistently with the provisions of the TTMRA. In the case of an Australian law practitioner who satisfies a District Law Society, as the local registration authority, that he or she is entitled to a grant of "registration" under s 20(1)(a) of the TTMRA, ie the issue of an appropriate practising certificate, the practising certificate to be issued will be the one the law practitioner applied for which in turn will be the one for the appropriate equivalent occupation. The appropriate practising certificate under s 57(1) of the LPA will be the one which the case requires under the TTMRA. There is no reason why s 57(1) should be read so as to cause difficulties for a District Law Society fulfilling its responsibilities as a local registration authority under the TTMRA. In this context s 57(1) should be read as an administrative provision which is implemented once the District Law Society has decided to exercise its statutory powers under s 20(1)(a) of the TTMRA and grant "registration".

9 It is therefore not open for an Australian law practitioner to seek "registration" under the TTMRA by being admitted as a barrister and solicitor of the High Court of New Zealand and then by applying to a District Law Society for a practising certificate under s 57(1) without reference to the TTMRA. Such an approach would by-pass the role of the District Law Society as a local registration authority under the TTMRA. It would also be contrary to the purpose and scheme of the TTMRA, especially as it would effectively treat s 57(1) of the LPA as prevailing over the TTMRA.

Lapse of Australian practising certificate

10 It is not necessary for an Australian law practitioner registered in New Zealand under the TTMRA to keep a valid Australian practising certificate at all times. This is made clear by s 17(2) of the TTMRA which provides in part -

> "An individual to whom registration has been granted on the ground referred to in subsection (1) -
>
> (a) Is entitled to renewal of registration in accordance with the law dealing with registration of that kind; and
>
> (b) Is not disentitled to registration or renewal of registration solely because the individual ceases to be registered in an equivalent occupation in an Australian jurisdiction ..."

11 This provision makes it clear that once Australian practitioners are registered in New Zealand under the TTMRA on the basis of their original Australian registration (ie admitted and issued with an appropriate practising certificate here) their New Zealand registration remains valid and they are entitled to a renewal of registration (ie the issue of a new practising certificate for the same equivalent occupation) notwithstanding the expiration of their Australian registration. For completeness it is noted that the opening words of paragraph (b) of s 17(2) do not detract from the need for the Australian applicant to be currently registered in Australia when first registered in New Zealand: see para. 3.4 above. The purpose of the opening words is to make it clear that the subsequent expiration of the Australian registration does not affect the validity of the New Zealand registration. This interpretation is reinforced by s 28(1)(e) which provides that an applicant's initial "deemed registration" does cease if the applicant ceases to be registered in Australia. And this provision applies expressly to barristers and solicitors admitted under the TTMRA: see s 51A(1) of the LPA as inserted by s 88 of the TTMRA.

12 An Australian law practitioner will therefore need to retain a current Australian practising certificate during any period of "deemed registration": s 28(1)(e) of the TTMRA. An Australian practitioner whose "deemed registration" ceases because his or her Australian registration lapses will have his or her name removed from the roll of barristers and solicitors by the Registrar of the High Court in which they were admitted: s 51A(1) of the LPA. If an Australian practitioner's name is removed from the roll in this way, his or her practising certificate will cease to be in force: s 57(3) of the LPA. But, once an Australian practitioner is registered here under s 20 of the TTMRA and issued with an appropriate practising certificate under s 57(1) of the LPA, it will no longer be necessary for the practitioner to keep a current Australian practising certificate: s 17(2)(a) and (b) of the TTMRA.

Registration only in equivalent occupation

13 Under the TTMRA Australian practitioners who are admitted in Australia and are authorised to practise there as both barristers and solicitors or as solicitors will be able to be admitted in New Zealand as barristers and solicitors and to obtain a practising certificate of their choice (ie as barrister and solicitor or as barrister sole). Australian barristers who are admitted and practise only in States in which the profession is not fused because the occupation of barrister and solicitor are separate occupations (Victoria, New South Wales and Queensland) are in a different category. While persons practising in Victoria, New South Wales and Queensland as solicitors are able to do all things that a barrister may do, barristers in those States may not do all of the things that a solicitor may do. A Victorian, New South Wales or Queensland solicitor could therefore choose to be registered under the TTMRA to practise as a barrister sole in New Zealand as his or her occupation is, for all intents and purposes, equivalent to that of a New Zealand barrister, or barrister and solicitor. But Australian barristers who are admitted and practise in Victoria, New South Wales or Queensland will only be able to be registered to practise in New Zealand in the equivalent occupation (ie barrister) and not in the occupations which are not equivalent (ie barrister and solicitor or solicitor). To permit "registration" in the occupation which is not equivalent would not be consistent with the basis of the TTMRA.

14 If a barrister from Victoria, New South Wales or Queensland wishes to be able to practise in New Zealand as a barrister and solicitor or as a solicitor, he or she would need to -

14.1 Obtain "registration" in an Australian State or Territory for the occupation in which "registration" is to be sought in New Zealand under the TTMRA and so attain all of the relevant professional qualifications (ie to practise as a solicitor); or

14.2 Apply to the Council of the NZLS for approval under regulation 9(5) of the Professional Examinations in Law Regulations 1987.

15 If the barrister from Victoria, New South Wales or Queensland, has already been "registered" in New Zealand under the TTMRA as a barrister or has somehow been admitted as a barrister and solicitor of the High Court of New Zealand before appreciating that a District Law Society should only issue him or her with a practising certificate as a barrister, then that person may still seek a practising certificate as a barrister and solicitor by obtaining the appropriate Australian registration for that occupation which would then be recognised here. The alternative route of applying to the Council of the NZLS for approval under the Professional Examinations in Law Regulations 1987 would not be available because

decisions under those Regulations affect admission not the issue of practising certificates.

Australian participating jurisdictions

16 Under the TTMRA New Zealand local registration authorities are required to register persons who are registered in occupations in "participating Australian jurisdictions". By virtue of the definitions in ss 2 and 3 of the TTMRA "a participating Australian jurisdiction" is a State or Territory which has corresponding mutual recognition legislation in force. To date New South Wales, Victoria, the Australian Capital Territory and Tasmania have enacted corresponding legislation which is currently in force. It is anticipated that Queensland will implement its legislation this month and that South Australia, Western Australia and the Northern Territory will do so later this year.

Impact of TTMRA on s 55 of LPA

17 The NZLS has received further advice in respect of the impact of the TTMRA on the restriction on the right of a practitioner to commence private practice contained in s 55 of the LPA. This issue was referred to in paragraph 16 of the memorandum for District Law Societies dated 26 March 1998. The further advice is that the practical experience requirements of s 55(2) of the LPA are not overridden by the TTMRA. The reasons for the advice are -

17.1 The practical experience requirements of s 55(2) of the LPA do not prevent a person from practising as a solicitor per se. A person issued with a practising certificate as a barrister and solicitor or as a solicitor may practise as an employee in a firm or in another organisation. Section 55(2) simply restricts the manner in which the person may practise as a solicitor.

17.2 Accordingly s 55(2) does not require a person to have any particular qualification before "carrying on or seeking to carry on" the occupation of solicitor in New Zealand: cf. ss 15(2) and 16(b) of the TTMRA.

17.3 Instead, because the requirements of s 55(2) apply equally to all persons carrying on or seeking to carry on the occupation of solicitor under the law of New Zealand, those requirements are not effected by the TTMRA: s 16(a).

Specific cases

18 A number of applications by Australian law practitioners for practising certificates under the TTMRA have already been received by District Law Societies. Some applications have given rise to issues covered in this further memorandum. One District has sought advice from the NZLS. As further issues may arise under the legislation in specific cases, Districts are encouraged to seek assistance from the NZLS when in doubt in order to ensure that a consistent approach is adopted.

Eric Deane
Director of Standards

X District Law Society

Revised Guidelines under
Trans-Tasman Mutual Recognition Act 1997

1. The X District Law Society is a local registration authority under the Trans-Tasman Mutual Recognition Act 1997 responsible for registering Australian law practitioners from a participating jurisdiction (ie one in which corresponding laws are in force) who seek to practise within New Zealand as barristers or as solicitors or as both. The District Law Society registers practitioners who have been admitted by the High Court as barristers and solicitors by issuing them with an appropriate practising certificate for the equivalent occupation in which they are registered in Australia. Under the Act the occupation of barrister is not equivalent to the occupation of solicitor or barrister and solicitor because in both countries a barrister is not authorised to carry out substantially the same activities as a solicitor.

2. An Australian law practitioner who seeks registration in New Zealand should first approach one of the Registrars of the High Court in order to be admitted as a barrister and solicitor by the Court. For that purpose the Registrar of the High Court is a local registration authority under the Trans-Tasman Mutual Recognition Act. A copy of the Guidelines issued by the Registrars of the High Court, including a list of their contact addresses, is attached.

3. Once an Australian practitioner is admitted as a barrister and solicitor by the High Court the practitioner may give written notification to the District Law Society under s 19(1) of the Trans-Tasman Mutual Recognition Act seeking registration in New Zealand through the issue of a practising certificate under s 57(1) of the Law Practitioners Act 1982 authorising the practitioner to practise

in the equivalent occupation in which he or she is registered in Australia, ie as a barrister or as a solicitor or as both. The issue of the appropriate practising certificate will depend on whether the Australian practitioner is authorised in Australia to practise as a barrister or as a solicitor or as both. As the nature of Australian practitioners' registrations vary from jurisdiction to jurisdiction, a table has been prepared showing the type of New Zealand practising certificate which will be issued for all categories of Australian registration. A copy of the table is attached.

4. An Australian practitioner seeking the issue of a practising certificate in New Zealand must give notice in writing to the District Law Society in whose district he or she intends to have his or her place of business or (where he or she intends to have more than one) his or her principal place of business. The notice must provide the information prescribed by s 19(2) of the Trans-Tasman Mutual Recognition Act. A copy of the required notice is attached. It will be seen that the notice must be accompanied by the prescribed fees and levies [see attachment] and have annexed to it the original or a facsimile copy of the applicant's Australian registration (ie current practising certificate or other document) or, if no such document exists, sufficient information to identify the applicant and the applicant's existing registration.

5. Pending the grant or refusal of the issue of a practising certificate by the District Law Society, the Australian applicant will be deemed to be registered here and entitled to practise his or her occupation as a barrister or as a solicitor or as both, but subject to payment of the prescribed fees and levies and any conditions which the District Law Society has imposed. The applicant's deemed registration will cease if it is cancelled or suspended or if the applicant ceases to be admitted or to hold a current practising certificate in Australia.

6. On receipt of the written notice the District Law Society must decide within a period of one month whether to grant (with or without any conditions), postpone (for up to six months) or refuse registration. It would be expected that the District Law Society would take steps to verify the accuracy of the information provided in the written notice and to ensure that full disclosure has been made. This would normally involve an approach to the relevant Australian local registration authorities. If the information proves to be accurate, full disclosure has been made and the appropriate fees and levies have been paid, registration will be granted by the issue of the appropriate practising certificate. The application will normally be dealt with on the papers and without the need for any formal appearance.

7. The District Law Society may postpone or refuse registration if any of the information in the written notice is false or misleading or any of the required information has not been provided or the prescribed fees and levies have not been paid.

8. When an Australian practitioner is deemed to be registered as a result of giving notification to a District Law Society and when a District Law Society decides to grant registration, the District Law Society may impose as a condition any condition that applies to the practitioner's registration in Australia provided that such conditions may not be more onerous than a condition which the District Law Society would otherwise impose on the applicant's registration in New Zealand.

9. The District Law Society is required to give written notice of its decision to the applicant. If registration is postponed or refused, reasons for the decision must

also be given, together with advice that the applicant may apply to the Trans-Tasman Occupations Tribunal for a review of the decision.

10. Once an Australian law practitioner is registered in New Zealand and holds a practising certificate authorising him or her to practise as a barrister or as a solicitor or as both, he or she will be subject to all the laws of New Zealand applicable to law practitioners here. In particular, the Australian practitioner will be subject to the restrictions on the rights of practitioners to commence practice on their own account or in partnership as well as the disciplinary provisions of the Law Practitioners Act 1982. And, in addition, the Australian practitioner will remain subject to the disciplinary processes in the Australian jurisdictions in which he or she is registered. If the practitioner's registration in Australia is cancelled or suspended or is subject to a condition on disciplinary grounds, or as a result of or in anticipation of criminal, civil, or disciplinary proceedings, then the practitioner's registration in New Zealand will be affected in the same way (and vice versa).

11. An Australian law practitioner who holds a practising certificate issued by a District Law Society under the Trans-Tasman Mutual Recognition Act may seek a renewal of his or her practising certificate even although he or she ceases to hold a current practising certificate in Australia.

12. An Australian barrister from Victoria, New South Wales or Queensland who seeks to be registered in New Zealand as a barrister and solicitor or as a solicitor must either -

12.1 First obtain registration in Australia in the occupation for which registration is sought in New Zealand and so attain all of the relevant professional qualifications (ie to practise as a solicitor); or

12.2 Apply to the Council of the New Zealand Law Society for approval under the Professional Examinations in Law Regulations 1987 before seeking admission as a barrister and solicitor of the High Court of New Zealand

27 August 1998

BEFORE THE X DISTRICT LAW SOCIETY

UNDER The Trans-Tasman Mutual Recognition Act 1997

IN THE MATTER of an application for registration as a barrister [or as a solicitor or as a barrister and as a solicitor] by **MARY ELIZABETH SMITH** of Sydney, New South Wales, Barrister

Notice seeking registration under section 19 of the Trans-Tasman Mutual Recognition Act 1997

1. I, **MARY ELIZABETH SMITH** of 100 Macquarrie Street, Sydney, New South Wales, Australia, give notice to the X District Law Society that I seek the issue of a practising certificate as a barrister under s 20 of the Trans-Tasman Mutual Recognition Act 1997 and s 57(1) of the Law Practitioners Act 1982 on the grounds that

1.1 I am currently authorised to practise as a barrister in New South Wales [or other participating Australian jurisdiction]; and

1.2 I have been admitted as a barrister and solicitor of the High Court of New Zealand under s 46(4) of the Law Practitioners Act 1982.

2. For the purposes of the Trans-Tasman Mutual Recognition Act 1997 the occupation of barrister in New South Wales is equivalent to the occupation of barrister in New Zealand.

3. Annexed to this application are -

3.1 The original [or a facsimile copy] of my current practising certificate issued by the New South Wales Bar Association authorising me to practise as a barrister in New South Wales. [If no such document exists, sufficient information to identify the applicant and the applicant's existing registration must be given]. I certify that the practising certificate issued by the New South Wales Bar Association is the original of that document [or a facsimile copy]; and

3.2 A sealed copy of the order of the High Court of New Zealand admitting me as a barrister and solicitor of that Court under s 46(4) of the Law Practitioners Act 1982.

4. I seek registration in New Zealand in accordance with the Trans-Tasman mutual recognition principle in relation to occupations.

5. I am [not] authorised to practise as a barrister in the following participating jurisdictions in Australia: eg Victoria.

6. I am not in relation to my occupation as a barrister in New South Wales [and Victoria] the subject of any preliminary investigations or action that might lead to disciplinary proceedings in New South Wales [or Victoria] or the subject of any disciplinary proceedings in New South Wales [or Victoria].

7. My practising certificate as a barrister in New South Wales [and Victoria] has not been cancelled or suspended as a result of disciplinary action.

8. I am not otherwise personally prohibited from carrying on my practice as a barrister in New South Wales [or Victoria] and I am not subject to any special conditions in carrying on my occupation, as a result of criminal, civil, or disciplinary proceedings in New South Wales [or Victoria].

9. I am [not] subject to any special conditions in carrying on my occupation as a barrister in New South Wales [or Victoria]. Full details of any such conditions (eg practical experience requirements) to be given.

10. I consent to the making of inquiries of, and the exchange of information with, the authorities of any participating jurisdiction regarding my activities as a barrister or otherwise regarding matters relevant to this notice.

11. Payment of the prescribed fees and levies is attached.

12. I verify the statements and other information in this notice by statutory declaration. [Appropriate form required with witness in Australia].

OCCUPATIONAL EQUIVALENCE FOR PRACTISING CERTIFICATE PURPOSES

Australian Applicant	New Zealand Occupation		
	Barrister	Solicitor	Barrister & Solicitor
NSW (all admitted as legal practitioners)			
Barrister (practising certificate issued by Bar Association)	Equivalent	Not equivalent	Not equivalent
Solicitor (practising certificate issued by Law Society)	Equivalent	Equivalent	Equivalent
Victoria (all practitioners register with Legal Practice Board which then allocates barristers to Victorian Bar Council and solicitors to Law Institute)			
Barrister (registered with Bar Council)	Equivalent	Not equivalent	Not equivalent
Solicitor (Law Institute practising certificate)	Equivalent	Equivalent	Equivalent
Queensland (divided profession)			
Barrister (by admission)	Equivalent	Not equivalent	Not equivalent
Solicitor (by admission and practising certificate)	Equivalent	Equivalent	Equivalent
Western Australia (all admitted as barristers and solicitors)			
Barrister and solicitor (practising certificate)	Equivalent	Equivalent	Equivalent
Barrister sole (by election)	Equivalent	Equivalent	Equivalent
South Australia (all admitted as barristers and solicitors)			
Barrister and solicitor (practising certificate)	Equivalent	Equivalent	Equivalent
Barrister sole (by election	Equivalent	Equivalent	Equivalent

Australian Applicant	New Zealand Occupation		
	Barrister	Solicitor	Barrister & Solicitor
Tasmania (all admitted as legal practitioners			
Barrister and solicitor (practising certificates)	Equivalent	Equivalent	Equivalent
Barrister sole (by election)	Equivalent	Equivalent	Equivalent
Australian Capital Territory (all admitted as barristers and solicitors)			
Barrister and solicitor (practising certificate)	Equivalent	Equivalent	Equivalent
Barrister sole (by admission)	Equivalent	Equivalent	Equivalent
Northern Territory (all admitted as legal practitioners)			
Barrister and solicitor (practising certificate)	Equivalent	Equivalent	Equivalent
Barrister sole (by election)	Equivalent	Equivalent	Equivalent

NEW ZEALAND DISTRICT LAW SOCIETIES

AUCKLAND DISTRICT LAW SOCIETY
PO Box 58 (DX CP24001) Auckland
(4th Floor, Chancery Chambers,
2-8 Chancery St, Auckland)
Tel (09) 303.5270 Fax (09) 309.3726
Executive Director Margaret Malcolm
Email: reception@adls.org.nz

CANTERBURY DISTRICT LAW SOCIETY
PO Box 565, Christchurch
(1st Floor, 307 Durham St, Christchurch)
Tel (03) 366.9184 Fax (03) 366.9977
Executive Director Malcolm Ellis
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GISBORNE DISTRICT LAW SOCIETY
PO Box 213, Gisborne
(c/- Gisborne Secretarial Services
295 Gladstone Road, Gisborne)
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HAWKES BAY DISTRICT LAW SOCIETY
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(C/o Napier Courthouse, Hastings St,
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MANAWATU DISTRICT LAW SOCIETY
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MARLBOROUGH DISTRICT LAW SOCIETY
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SOUTHLAND DISTRICT LAW SOCIETY
PO Box 821, Invercargill
(High Court Library, 39 Don Street
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TARANAKI DISTRICT LAW SOCIETY
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Tel (06) 758.4020 (ring first) or (06) 758.3238
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WAIKATO BOP DISTRICT LAW SOCIETY
PO Box 180 (DX GP20007) Hamilton
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WANGANUI DISTRICT LAW SOCIETY
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10 Market Place, Wanganui)
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WELLINGTON DISTRICT LAW SOCIETY
PO Box 494 (DX SP 26510) Wellington
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