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LEGAL PROFESSION ACT 2008

LEGAL PROFESSION (ADMISSION) RULES 2009

Western Australia

Legal Profession (Admission) Rules 2009

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Legal Profession Act 2008

Legal Profession (Admission) Rules 2009

Made by the Legal Practice Board under Part 17 of the Act.

Part 1 — Preliminary matters

1. Citation

These rules are the *Legal Profession (Admission) Rules 2009*.

2. Commencement

These rules come into operation as follows —

- (a) rules 1 and 2 — on the day on which these rules are published in the *Gazette*;
- (b) the rest of the rules — on the day on which the *Legal Profession Act 2008* Part 17 comes into operation.

3. Terms used

In these rules —

proposed admission day, in relation to an application to be admitted, means the day set by the Supreme Court for the hearing of applications to be admitted that is —

- (a) next following the expiration of 2 months from the day on which the application is lodged; or

Legal Profession (Admission) Rules 2009**Part 1** Preliminary matters**r. 4**

- (b) if the Board has given the applicant a notice under section 32 of the Act — next following the day after the expiration of one month from the day on which the applicant complies with the notice to the satisfaction of the Board,

whichever is later;

Uniform Admission Rules means the uniform admission rules prepared from time to time by the Law Admissions Consultative Committee.

4. Applications

- (1) In this rule —
application includes a notice under rule 11(2)(a).
- (2) An application to the Board for the purposes of these rules —
 - (a) must be made in the approved form; and
 - (b) must be accompanied by any documents or other information required by the approved form; and
 - (c) must be accompanied by the relevant fee specified in Schedule 1.
- (3) If the approved form provides for any document or information relating to the application to be given to the Board after the application has been given, the applicant must give the document or information to the Board within the period specified in the form.
- (4) An applicant must provide to the Board any additional document or information relevant to the application that the Board asks for.
- (5) The Board may refuse to consider an application if it is not made in accordance with these rules or the required fees are not paid.

Legal Profession (Admission) Rules 2009

Admission of local lawyers

Part 2**r. 5****Part 2 — Admission of local lawyers****5. Approved academic qualifications — institutions (s. 21)**

The academic qualifications set out in the Table are approved as academic qualifications for admission to the legal profession in this jurisdiction.

Table

	University	Qualification
1.	Edith Cowan University	Bachelor of Laws
2.	Murdoch University	Bachelor of Laws Juris Doctor
3.	The University of Notre Dame Australia	Bachelor of Laws Juris Doctor
4.	The University of Western Australia	Bachelor of Laws

6. Approved academic qualifications — individuals (s. 21)

- (1) The Board may, on the application of an individual, approve an academic qualification, or a combination of qualifications, as an approved academic qualification in respect of that individual.
- (2) An application for approval under subrule (1) is to be made to the Board in accordance with rule 4.
- (3) In deciding whether to approve an academic qualification the Board is to have regard to the Uniform Admission Rules.

Legal Profession (Admission) Rules 2009**Part 2** Admission of local lawyers**r. 7**

7. Approved practical legal training requirements (s. 21)

- (1) In this rule —
required period means —
- (a) 12 months; or
 - (b) if the person has, after satisfying section 21(2)(b) of the Act, been engaged in employment determined by the Board to have provided sufficient professional training and experience to justify a shorter term of articles, 6 months.
- (2) Each of the following is approved as practical legal training requirements for admission to the legal profession in this jurisdiction —
- (a) both —
 - (i) service for the required period as an articled clerk under, and in accordance with, articles of clerkship made and registered under Part 3; and
 - (ii) the articled clerks training referred to in rule 20;
 - (b) a practical legal training course approved under rule 8;
 - (c) practical legal training approved under rule 9.
- (3) For the purposes of this rule —
- (a) public holidays during a required period are to be included as days of service as an articled clerk, whether or not the articled clerk engaged in legal practice on those days; and
 - (b) normal periods of leave taken during a required period by the articled clerk are to be included as periods of service as an articled clerk.

Legal Profession (Admission) Rules 2009

Admission of local lawyers

Part 2**r. 8****8. Approval of practical legal training requirements — institution (s. 21)**

- (1) The Board may, on the application of a person who provides, or proposes to provide, a legal training course (the *course provider*), approve the course for the purposes of rule 7(2)(b).
- (2) An application for approval under subrule (1) is to be made to the Board in accordance with rule 4.
- (3) The Board may revoke an approval given under subrule (1) at any time.
- (4) In deciding whether to grant an approval under subrule (1) or to revoke an approval under subrule (3) the Board is to have regard to the Uniform Admission Rules.

9. Approval of practical legal training requirements — individual (s. 21)

- (1) The Board may, on the application of an individual, approve practical legal training undertaken, or being or to be undertaken, by the individual for the purposes of rule 7(2)(c) in respect of that individual.
- (2) An application for approval under subrule (1) is to be made to the Board in accordance with rule 4.
- (3) In deciding whether to grant an approval under subrule (1) the Board is to have regard to the Uniform Admission Rules.

10. Early consideration of suitability (s. 23)

An application under section 23 of the Act is to be made to the Board in accordance with rule 4.

11. Application for admission (s. 25)

- (1) An application to be admitted to the legal profession must be made to the Supreme Court (full bench) in accordance with the *Rules of the Supreme Court 1971*.

Legal Profession (Admission) Rules 2009**Part 2** Admission of local lawyers**r. 12**

- (2) An applicant must give to the Board —
 - (a) a notice in the approved form stating that the application has been made; and
 - (b) a copy of the application made to the Court.
- (3) A notice under subrule (2)(a) must be —
 - (a) made in accordance with rule 4; and
 - (b) given to the Board not more than 2 days after the application to be admitted is made to the Court.

12. Public notice of application for admission

- (1) After receiving a notice under rule 11(2) the Board must cause notice of the applicant's application to be admitted to the legal profession to be published twice in a daily newspaper circulating throughout the State.
- (2) The newspaper notices must appear —
 - (a) at least 14 days, but not more than 28 days, before the proposed admission day; and
 - (b) at least 7 days apart.
- (3) Notice of the applications to be admitted of 2 or more applicants may be published in the same newspaper notice.
- (4) If —
 - (a) notice of a person's application to be admitted has been advertised as required by subrule (1); and
 - (b) the hearing of the person's application is deferred to a later date,

the Board is not required to cause notice to be published of the hearing of the application on that later date unless that later date is more than 6 months after that initial proposed admission day.

Legal Profession (Admission) Rules 2009

Admission of local lawyers

Part 2**r. 13**

13. Compliance certificates (s. 31)

- (1) A compliance certificate under section 31(1) of the Act must be filed at the Supreme Court at least 7 days before the proposed admission day.
- (2) When the Board files a compliance certificate it must give a copy of the certificate to the applicant.
- (3) An information notice under section 31(2) of the Act must be given to the Supreme Court and the applicant at least 7 days before the proposed admission day.

Legal Profession (Admission) Rules 2009**Part 3** Articles of clerkship**r. 14**

Part 3 — Articles of clerkship**14. Terms used**

In this Part —

articled clerk means a person who is subject to articles of clerkship registered under this Part;

principal means a local legal practitioner to whom an articled clerk is articled.

15. Eligibility

- (1) A person is eligible to be an articled clerk only if the person has attained academic qualifications sufficient to satisfy section 21(2)(b) of the Act.
- (2) A person is eligible to be the principal for an articled clerk only if the person —
 - (a) is a local legal practitioner; and
 - (b) is approved by the Board to be the principal for that articled clerk; and
 - (c) is not a disqualified person.
- (3) An application for approval under subrule (2)(b) is to be made to the Board in accordance with rule 4.
- (4) The Board may revoke an approval given under subrule (2)(b) by giving written notice to the legal practitioner.

16. Form and registration of articles of clerkship

- (1) In this rule —

articles of clerkship includes an assignment of articles of clerkship.
- (2) Articles of clerkship must be —
 - (a) made by deed in the approved form; and

Legal Profession (Admission) Rules 2009

Articles of clerkship

Part 3**r. 17**

-
- (b) registered by the Board.
 - (3) An application for registration of articles of clerkship is to be made to the Board in accordance with rule 4.
 - (4) The Board must not register articles of clerkship unless satisfied that the articulated clerk and principal are both eligible under rule 15.
 - (5) Registration of articles of clerkship takes effect on a day determined by the Board.
 - (6) An articulated clerk must notify the Board of any change in any of the information given in or with the application for registration of his or her articles of clerkship.

17. Assignment or replacement of articles

- (1) There are *grounds for assignment* of articles of clerkship if —
 - (a) the principal dies; or
 - (b) the principal ceases to be eligible to be the principal for the articulated clerk; or
 - (c) the Board is satisfied that, for any other reason, assignment or replacement of the articles should be permitted.
- (2) If there are grounds for assignment of an articulated clerk's articles of clerkship the articles may be —
 - (a) assigned to another eligible legal practitioner; or
 - (b) cancelled and replaced by new articles of clerkship with another eligible legal practitioner for the unexpired balance of the term of the former articles.
- (3) If articles of clerkship are assigned or replaced, the obligations of the former principal under those articles of clerkship cease when the assignment is, or new articles of clerkship are, registered.

Legal Profession (Admission) Rules 2009**Part 3** Articles of clerkship**r. 18**

18. Cancellation of registration of articles

- (1) The Board may cancel the registration of an articulated clerk's articles of clerkship on such terms as the Board thinks fit.
- (2) The Board may exercise its power under subrule (1) on the application of the articulated clerk or the principal, or on its own initiative.
- (3) An application for cancellation of the registration of articles of clerkship is to be made to the Board in accordance with rule 4.

19. Supervision of articulated clerks

- (1) The Board may supervise the conduct of articulated clerks in general or an articulated clerk in particular.
- (2) For the purposes of subrule (1) the Board may require an articulated clerk or principal to do either or both of the following —
 - (a) make available to the Board any document or other information in his or her possession or control;
 - (b) appear before the Board and answer questions put to the person.
- (3) If the Board is satisfied that an articulated clerk has not complied with his or her obligations under the Act or his or her articles of clerkship, the Board may determine that a specified period not be counted as part of the term of those articles.

20. Articled clerks training

- (1) In this rule —

Articles Training Programme means the programme of practical legal training for articulated clerks (including assessments and examinations) conducted by the Board;

optional subject means —

 - (a) commercial and corporate law practice; or

Legal Profession (Admission) Rules 2009

Articles of clerkship

Part 3**r. 21**

- (b) property law practice,
as described for the purposes of the Articles Training Programme.
- (2) For the purposes of section 21(2)(c) of the Act an articulated clerk satisfactorily completes the practical legal training referred to in rule 7(2)(a)(ii) if, during the term of his or her articles of clerkship, the articulated clerk —
- (a) completes, to the satisfaction of the Board, all of the courses forming part of the Articles Training Programme for subjects that are not optional subjects; and
 - (b) in relation to each optional subject, completes, to the satisfaction of the Board, either —
 - (i) the Articles Training Programme course for that subject; or
 - (ii) practical legal training in that subject to the standard required by the Uniform Admission Rules, provided to the articulated clerk by or on behalf of his or her principal.

21. Conduct of principal for articulated clerk

A local legal practitioner who is the principal for an articulated clerk under articles of clerkship must comply with that deed.

Legal Profession (Admission) Rules 2009**Part 4** General matters**r. 22**

Part 4 — General matters**22. Documents given to or by the Board**

- (1) Unless the Board has agreed otherwise a document given to the Board for the purposes of these rules is to be —
 - (a) in writing, signed by the person giving it; and
 - (b) given by posting or delivering it to the secretary at the offices of the Board.
- (2) A notice or document required by these rules to be given by the Board to a person may be given to the person at the person's address as last known to the Board.

23. Board may excuse noncompliance

If the Board determines that, in a particular case, it is not practicable for a person to comply with any of these rules or that there are other special circumstances, the Board may excuse a person from complying with that rule to the extent and subject to any conditions determined by the Board.

Legal Profession (Admission) Rules 2009

Transitional provisions

Part 5**r. 24****Part 5 — Transitional provisions****24. Terms used**

In this Part —

2003 Act means the *Legal Practice Act 2003*;

2004 Rules means the *Legal Practice Board Rules 2004*;

commencement day means the day on which section 598 of the Act comes into operation;

continued 1893 provisions means the *Legal Practitioners Act 1893* sections 16, 17 and 19 and the rules made under section 17, as continued by the *Acts Amendment and Repeal (Courts and Legal Practice) Act 2003* section 8 as applying immediately before the commencement day;

existing managing clerk means a person to whom the continued 1893 provisions applied immediately before the commencement day.

25. Articles registered under 2003 Act

- (1) The registration of articles of clerkship under the 2003 Act that is in force immediately before the commencement day continues on and after that day as registration under rule 16.
- (2) A deed to which subrule (1) applies is to be taken to include terms to the same effect as sections 23 and 25 of the 2003 Act and rule 26 of the 2004 Rules.
- (3) A —
 - (a) consent given by a legal practitioner under section 23(1) of the 2003 Act; or
 - (b) determination made by the Board under section 23(5) of the 2003 Act,

in relation to a person who is an articulated clerk under a deed to which subrule (1) applies that is in force immediately before the

Legal Profession (Admission) Rules 2009**Part 5** Transitional provisions**r. 26**

commencement day, continues for the purposes of the provision that is to be taken to be included in that deed under subrule (2).

26. Managing clerks — approval of qualifications and training

- (1) The academic qualifications prescribed by the continued 1893 provisions are approved as an academic qualification for admission to the legal profession in this jurisdiction of an existing managing clerk.
- (2) The practical legal training requirements prescribed by the continued 1893 provisions are approved as practical legal training requirements for admission to the legal profession in this jurisdiction of an existing managing clerk.

Legal Profession (Admission) Rules 2009**Fees Schedule 1****Schedule 1 — Fees**

[r. 4(2)(c)]

Rule	Subject matter	Fee
r. 6	Approval of qualification: application by individual	\$200
r. 9	Approval of practical legal training: application by individual	\$200
r. 10	Early consideration of suitability application for declaration under s. 23 of Act	\$300
r. 11	Notice to Board of application to be admitted	\$360
r. 16	Articles of clerkship: application for registration	\$200

Made by the Legal Practice Board under section 575 of the Act.

ROBERT E. COCK, QC
Member.

BRUNO FIANNACA, SC
Member.

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Member.

JOHN R. B. LEY
Member.