

JU301\*

Legal Practice Act 2003

## Legal Practice Board Amendment Rules 2008

Made by the Legal Practice Board under section 252.

### 1. Citation

These rules are the *Legal Practice Board Amendment Rules 2008*.

### 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 after that day.

### 3. The rules amended

The amendments in these rules are to the *Legal Practice Board Rules 2004*.

### 4. Various fees amended

The rules listed in the Table to this rule are amended by deleting “\$250” and inserting instead —

“ \$300 ”.

#### Table

r. 33(2)(b)	r. 35(2)(b)
r. 37(a)	r. 42(2)(b)

### 5. Rule 44 replaced by rules 44 and 44AA

Rule 44 is repealed and the following rules are inserted instead —

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#### 44. Application for practice certificate: information — s. 37(2)(b)

(1) In this rule —

“**certificate period**”, in relation to an application for a practice certificate, means the period in respect of which the practice certificate is sought;

**“contact details”** means —

- (a) street address; and
- (b) postal address, if different from street address; and
- (c) telephone number; and
- (d) facsimile number (if any); and
- (f) email address (if any);

**“exempt practitioner”** has the meaning given in regulation 3 of the PII Regulations;

**“PII Regulations”** means the *Legal Practice (Professional Indemnity Insurance) Regulations 1995*.

- (2) For the purposes of section 37(2)(b) the following information must be included in, or accompany, an application for a practice certificate —
    - (a) the applicant’s full name and residential contact details;
    - (b) the name and contact details of the applicant’s practice or place of employment;
    - (c) the capacity in which the applicant practices;
    - (d) a statement to the effect that the applicant is not a disqualified person, is not an insolvent practitioner and is not in prison;
    - (e) the trust fund information described in subrule (3);
    - (f) the professional indemnity insurance information described in subrule (4).
  - (3) The trust fund information referred to in subrule (2)(e) is —
    - (a) a statement as to whether, in the course of the applicant’s practice, the applicant will accept trust moneys; and
    - (b) if the applicant will accept trust moneys —
      - (i) the following information in relation to the applicant’s trust account —
        - (I) the name of the account;
        - (II) the name of the bank;
        - (III) the BSB and account number;
        - (IV) the date the account was opened;
      - and
      - (ii) the name and contact details of the auditor of the trust account;
- and

- (c) if the applicant is required by section 147 to give the Board a certificate from an accountant —
  - (i) if the application is made electronically through the Board's website, a statement to the effect that the applicant —
    - (I) intends to provide a certificate to the Board as required; and
    - (II) reasonably believes he or she will be able to do so;
  - or
  - (ii) if the application is made manually, a certificate as so required.
- (4) The professional indemnity insurance information referred to in subrule (2)(f) is —
  - (a) if the application is made electronically through the Board's website, a statement to the effect that —
    - (i) the applicant has PI insurance for the certificate period; or
    - (ii) the applicant —
      - (I) intends to arrange, before the start of the certificate period, to have PI insurance for the certificate period; and
      - (II) reasonably believes that he or she will be able to do so;
    - or
    - (iii) the applicant is or will be an exempt practitioner for the certificate period;
    - or
    - (b) if the application is made manually —
      - (i) a notice of the kind referred to in regulation 6(2) of the PII Regulations for the certificate period; or
      - (ii) other evidence that the applicant —
        - (I) has, or will have, PI insurance for the certificate period; or
        - (II) is, or will be, an exempt practitioner for the certificate period.
  - (5) If an application for a practice certificate is made electronically through the Board's website the applicant must ensure that the following are provided

to the Board no later than 14 days after the commencement of the certificate period —

- (a) either —
    - (i) a notice of the kind referred to in regulation 6(2) of the PII Regulations for the certificate period; or
    - (ii) other evidence that the applicant has PI insurance, or is an exempt practitioner, for the certificate period;
  - (b) if the applicant is required by section 147 to give the Board a certificate from an accountant, a certificate as so required.
- (6) For the purposes of subrules (4) and (5) a person “**has PI insurance**” for a certificate period if there is a valid current certificate of insurance under the arrangements within the meaning given in the PII Regulations in force in respect of the person for that period.

**44AA. Application fee for practice certificate: fees — s. 37(2)(c)**

- (1) In this rule —  
“**standard fee**” means \$1 000.
- (2) For the purposes of section 37(2)(c) —
  - (a) unless paragraph (b) applies, the prescribed application fee is the standard fee; or
  - (b) if the application is made on or after 1 January but before 1 July in a year and either —
    - (i) the applicant was not a certificated practitioner on 30 June in the previous year; or
    - (ii) if the applicant was a certificated practitioner on 30 June in the previous year, under section 37(5) the applicant was not required to renew his or her practice certificate,  
the prescribed application fee is 50% of the standard fee.
- (3) If the application is submitted electronically through the Board’s website, the application fee is reduced by 5% of the standard fee.
- (4) For the purposes of section 37(6) the prescribed late fee is —
  - (a) if the application is made after 30 June but on or before 31 July in the year in which the application was required by section 37(4) to be made — 25% of the standard fee;

- (b) if the application is made after 31 July but on or before 31 August in that year — 50% of the standard fee;
  - (c) if the application is made after 31 August in that year — 100% of the standard fee.
- (5) For the purposes of this rule an application is made —
- (a) if the application is submitted electronically through the Board's website — when the applicant is issued with an electronic confirmation that the application has been received; or
  - (b) otherwise — when the secretary has received all of the following —
    - (i) a completed application form;
    - (ii) all of the documents that are required by rule 44 to be provided with the application;
    - (iii) if the applicant is required to give a certificate under section 147, that certificate;
    - (iv) a notice of the kind referred to in the *Legal Practice (Professional Indemnity Insurance) Regulations 1995* regulation 6(2) in respect to the applicant;
    - (v) payment of the application fee and any applicable late fee.

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Made by the Legal Practice Board under section 252.

ROBERT E. COCK QC, Member.

CLARE H. THOMPSON, Member.

MATTHEW H. ZILKO SC, Member.

ANNA M. LISCIA, Member.

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