

JU301*

Legal Practice Act 2003

Legal Practice Board Amendment Rules (No. 2) 2006

Made by the Legal Practice Board under the Act section 252.

1. Citation

These rules are the *Legal Practice Board Amendment Rules (No. 2) 2006*.

2. The rules amended

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

[* *Published in Gazette 14 May 2004, p. 1473-557.*
For amendments to 15 November 2006 see Western Australian Legislation Information Tables for 2005, Table 4, and Gazette 2 May 2006.]

3. Rule 22 amended

(1) Rule 22(2) is amended as follows:

(a) after paragraph (a) by inserting —

“

(aa) an undertaking in the form of Form 2A from the person who is to be the principal; and

”;

(b) by deleting paragraph (c) and inserting instead —

“

(c) documentary evidence of the educational qualifications that entitle the applicant to be admitted certified by the university from which those qualifications were obtained; and

”;

- (c) after each of paragraphs (a), (b), (d) and (e) by inserting —
“ and ”.

- (2) After rule 22(2) the following subrule is inserted —

“

- (3) If the requirement for the applicant to serve a term of articles is imposed under section 27(3)(b), subrule (2)(aa) does not apply unless the applicant is required under section 27(3)(a) to satisfy the requirements for practical legal training prescribed for the purposes of section 27(1)(a).

”.

4. Rule 23 amended

- (1) After rule 23(3) the following subrules are inserted —

“

- (3a) An application referred to in subrule (2) or (3) is to also be accompanied by —
- (a) a certificate in the form of Form 7 from the former principal in respect of the period of articles prior to the assignment or registration of new articles; and
 - (b) a statement from the former principal setting out the extent to which the articled clerk has completed his or her practical legal training; and
 - (c) an undertaking in the form of Form 2A from the person who is to become the principal.
- (3b) Without limiting rule 76, subrule (3)(a) and (b) do not apply if the application has been made because of the death of the former principal.

”.

- (2) Rule 23(4) is amended by deleting “old” and inserting instead —

“ former ”.

- (3) After rule 23(4) the following subrule is inserted —

“

- (5) In this rule —
“**former principal**” means the principal under the articles of clerkship that are to be assigned or replaced.

”.

5. Rule 26 amended

Rule 26(2)(b) is deleted and the following is inserted instead —

“

- (b) provide, or arrange for the provision of, any of the articulated clerk's practical legal training that the principal undertook to provide or have provided on his or her behalf; and
- (c) ensure that the duties required of the articulated clerk do not prevent the articulated clerk from —
 - (i) satisfying the requirements for practical legal training prescribed for the purposes of section 27(2)(a); and
 - (ii) satisfying any requirements imposed on the articulated clerk under section 27(3)(a); and
 - (iii) complying with the articulated clerk's obligations under subrule (1)(b).

”.

6. Rule 27 repealed

Rule 27 is repealed.

7. Part 3 Division 2 repealed

Part 3 Division 2 is repealed.

8. Rule 34 amended

Rule 34(2) is repealed.

9. Rule 34A inserted

After rule 34 the following rule is inserted —

“

**34A. Practical legal training for articulated clerks —
s. 27(2)(a)**

- (1) For the purposes of section 27(2)(a) the prescribed requirements for practical legal training are —
 - (a) completion, to the satisfaction of the Board, of all of the courses forming part of the Articles Training Programme for subjects that are not the optional subjects; and
 - (b) in relation to each optional subject, completion, to the satisfaction of the Board, of 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 an articulated clerk by or on behalf of his or her principal.

(2) In this rule —

“**optional subject**” means —

- (a) commercial and corporate law practice; or
 - (b) property law practice,
- as described for the purposes of the Articles Training Programme;

“**Uniform Admission Rules**” means the uniform admission rules prepared by the Law Admissions Consultative Committee and adopted by the Council of Chief Justices on 4 April 2002.

”.

10. Rule 36 amended

(1) Rule 36(3)(a) is deleted and the following is inserted instead —

“

- (a) documentary evidence of the educational qualifications that entitle the applicant to be admitted certified by the university from which those qualifications were obtained; and

”.

(2) Rule 36(4)(a) and “and” after it are deleted and the following is inserted instead —

“

- (a) a certificate in the form of Form 7 from each legal practitioner with whom the person served articles; and

”.

(3) After rule 36(5) the following subrule is inserted —

“

- (5a) Despite subrule (2)(b), the certificates referred to in subrule (4)(a) and (5)(b) —
 - (a) may be given to the Board after the applicant has lodged his or her notice of intention to apply for admission; and
 - (b) must be given to the Board at least 14 days before the applicant applies to the Court for admission.

”.

(4) Rule 36(6) is amended as follows:

- (a) after paragraph (a) by inserting —
 - “ and ”;
- (b) at the end of paragraph (b) by deleting “; and” and inserting a full stop instead;
- (c) by deleting paragraph (c).

11. Rule 39 replaced

Rule 39 is repealed and the following rule is inserted instead —

“

39. Application to the Court

An application for admission is to be made to the Court in accordance with the *Rules of the Supreme Court 1971* and supported by an affidavit in the form of Form 13.

”.

12. Schedule 1 amended

(1) The amendments in this rule are to Schedule 1.

(2) Form 2 is amended as follows:

(a) clause 3.3(b) and “and” after it are deleted and the following is inserted instead —

“

(b) has satisfied the requirements for practical legal training prescribed for the purposes of section 27(2)(a) of the Act; and

(c) has satisfied any requirements imposed on the articulated clerk under section 27(3)(a); and

”;

(b) clause 3.3(c) is renumbered as paragraph (d);

(c) after clause 3 the following clause is inserted —

“

4. Obligation under deed in addition to obligations under Act

The obligations of the Articled Clerk and the Principal under this deed are in addition to their obligations under the Act.

”;

(d) clause 4 is renumbered as clause 5.

(3) After Form 2 the following form is inserted —

“

Form 2A — Undertaking as to practical legal training

Undertaking as to practical legal training		<i>Legal Practice Act 2003 Legal Practice Board Rules 2004 r. 22, 23 Form 2A</i>
Applicant	Name	
	Address	_____
Principal	Name	
	Address	_____
	Telephone	Fax
	Mobile	
	Email	
Articles	Date of Deed of Articles	/ /20

The Applicant and Principal have agreed that the Applicant's practical legal training in the following subjects will be provided as follows:		
	ATP course	By or on behalf of Principal
Commercial and corporate law practice	<input type="checkbox"/>	<input type="checkbox"/>
Property law practice	<input type="checkbox"/>	<input type="checkbox"/>
In relation to the subjects indicated above as to be provided by or on behalf of the Principal, I undertake to provide, or arrange for the provision on my behalf of, practical legal training to the standard required by the Uniform Admission Rules.		
Signature: _____		
Date / /20		

”.

- (4) Form 4 is amended by deleting “Old” in both places where it occurs and inserting instead —
“ Former ”.
- (5) Form 5 is amended as follows:
 (a) in recital A, by deleting “with” and inserting instead —
“ by ”;
 (b) by deleting “Old” in each place where it occurs and inserting instead —
“ Former ”.
- (6) Form 6 is amended by deleting “Old” in both places where it occurs and inserting instead —
“ Former ”.
- (7) Form 7 is deleted and the following form is inserted instead —

“

Form 7 — Certificate of completion of articles

Certificate of completion of articles		<i>Legal Practice Act 2003 Legal Practice Board Rules 2004 r. 27 Form 7</i>		
Articled clerk	Name	_____		
	Address	_____		
Principal	Name	_____		
	Address	_____		
	Telephone	Fax	_____	
	Mobile	_____		
	Email	_____		
Articles	Date of registration	/	/20	
Practical legal training	The Articled Clerk's practical legal training in the following subjects was provided as follows:			
		ATP course	By or on behalf of Principal	
	Commercial and corporate law practice	<input type="checkbox"/>	<input type="checkbox"/>	
	Property law practice	<input type="checkbox"/>	<input type="checkbox"/>	

<p>I certify that the Articled Clerk —</p> <p><input type="checkbox"/> has completed 12 months service as my articled clerk;</p> <p>or</p> <p><input type="checkbox"/> served as my articled clerk from ____/____/20____ to ____/____/20____;</p> <p>or</p> <p><input type="checkbox"/> has served as my articled clerk since ____/____/20____ and that I intend the Articled Clerk to continue as my articled clerk for the duration of the term of articles, which will be completed before the date proposed for the Articled Clerk's admission.</p> <p>I will notify the Board immediately if the Articled Clerk ceases to be my articled clerk before the term of articles is completed.</p>	
<p>In relation to the subjects indicated above as those in which practical legal training was provided by me or on my behalf, I certify that the Articled Clerk has completed that training and in my opinion has attained the standard required by the Uniform Admission Rules.</p>	
<p>I certify that while serving as my articled clerk, the Articled Clerk has complied with all of the Articled Clerk's obligations under the <i>Legal Practice Act 2003</i> and the Deed of Articles of Clerkship.</p>	
<p>Signature: _____</p>	
<p>Date / /20</p>	

(8) Form 10 is amended as follows:

- (a) by deleting "Term of articles"; and
- (b) by deleting the row entitled "ATP".

Made by the Legal Practice Board under section 252

R. K. O'CONNOR QC, Member.

G. M. G. McINTYRE SC, Member

G. T. W. TANNIN SC, Member

S. PENGLIS, Member