



Western Australia

Legal Practitioners Act 1893

## **Legal Practice Board Rules 1949**

These rules were repealed by the *Legal Practice Board Rules 2004* r. 77 as at 14 May 2004 (see *Gazette* 14 May 2004 p. 1518).

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## Legal Practice Board Rules 1949

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Western Australia

Legal Practitioners Act 1893

## Legal Practice Board Rules 1949

### Part I — Introductory

**1. Citation**

These rules may be cited as the *Legal Practice Board Rules 1949*<sup>1</sup>.

*[Rule 1 inserted in Gazette 12 December 1986 p. 4807; amended in Gazette 18 March 1994 p. 1043.]*

**2. Repeal and savings**

*[Omitted under the Reprints Act 1984 s. 7(4)(f) and (g).]*

**3. Interpretation**

In the interpretation of these rules —

“**Secretary**” shall mean the Secretary for the time being of the Board;

“**Chairman**” shall include the Solicitor-General when acting as the delegate of the Attorney General pursuant to section 13 of the *Solicitor-General Act 1969*, and any member of the Board elected to preside at any meeting of the Board in the absence of the Chairman.

*[Rule 3 amended in Gazette 7 March 1974 p. 740.]*

**3A.      Varying time periods**

The Board may shorten or extend any time period referred to in these rules.

*[Rule 3A inserted in Gazette 24 November 1995 p. 5394.]*

## Part II — Election

### 4. Annual election date

Subject as hereinafter provided, the annual election of the elected members of the Board shall be held on the first Tuesday in the month of April in each and every year.

Except where the first Tuesday in the month of April in a year is a day when the offices of the Supreme Court are not open, in which case the annual election shall be held on the second Tuesday in the month of April.

*[Rule 4 amended in Gazette 7 March 1974 p. 740;  
11 March 1983 p. 823.]*

### 5. Board to appoint electoral officers

The Board shall prior to each annual election appoint a person to act as returning officer and a person to act as assistant returning officer for that election.

*[Rule 5 inserted in Gazette 27 February 1981 p. 799.]*

### 6. Time for lodging nomination

Every practitioner desirous and being qualified to become a member of the Board shall not less than 28 days before the date of the election forward to the Secretary written notice of his intention to seek election, countersigned by at least one practitioner entitled to vote.

*[Rule 6 amended in Gazette 27 February 1981 p. 799.]*

### 7. Candidates elected where nominations equal vacancies

If there are no more candidates than the number of vacancies, such candidates shall be declared elected at a meeting of the Board to be held not later than the date prescribed for the election of members of the Board in that year.

*[Rule 7 amended in Gazette 11 March 1983 p. 823.]*

**8. Method of election**

- (1) If there are more candidates than the number of vacancies, the method of election shall be as follows —
  - (a) the Secretary shall at least 10 days before the day of the election send in an envelope marked Confidential to each practitioner entitled to vote a ballot paper initialled by him containing the names of all candidates set out in the order determined by lot by the Secretary and indicating by means of an asterisk those candidates who are retiring members;
  - (b) practitioners desirous of voting shall leave the names of all candidates for whom they desire to vote intact and score through the remaining names with a pen or pencil and shall return the ballot paper to the Secretary in a sealed envelope signed by the practitioner and endorsed “Ballot Paper” so as to reach the Secretary not later than 12 o’clock noon on the date of the election;
  - (c) no practitioner shall vote more than once in any election.
- (2) On the day of the election and as soon as is reasonably practicable after 12 o’clock noon on that day —
  - (a) the Secretary shall deliver to the Returning Officer unopened all the envelopes endorsed “Ballot Paper” which shall have been delivered to him in connection with the election;
  - (b) the Returning Officer shall with the assistance of the Assistant Returning Officer forthwith open each of the envelopes, determine the validity of the ballot paper contained therein, make a written record of the votes cast for each candidate and deliver to the Secretary the written record signed by him and by the Assistant Returning Officer together with a bundle to be marked “A” containing all those ballot papers which he has

determined are valid and a bundle marked “B” containing all those ballot papers which he has determined are invalid.

*[(3) Omitted under the Reprints Act 1984 s. 7(4)(e).]*

- (4) If the Board cannot determine with respect to the number of vacancies the candidates in favour of whom the largest number of votes have been cast because 2 or more candidates have received the same number of votes, the Chairman shall have a casting vote in favour of one of such candidates, or in favour of more than one candidate if that be necessary to resolve the matter.

*[Rule 8 inserted in Gazette 27 February 1981 pp. 799-800; amended in Gazette 11 March 1983 p. 823; 14 July 1989 p. 2132.]*

**9. Day when successful candidate to take office**

In respect of each election the successful candidates shall take office on the Thursday next following the day of the election and shall continue in office until midnight on the Wednesday next following the day of the election in the following year.

*[Rule 9 inserted in Gazette 27 February 1981 p. 800.]*

**10. Names of successful candidates and nominated Board members to be published in the *Gazette***

The names of the successful candidates and of every person nominated as a member of the Board under the provisions of the Act shall be published in the *Government Gazette* as soon as practicable.

**11. Non-receipt of ballot papers**

The omission by the Secretary to send or the non-receipt of any ballot paper by any practitioner within the time aforesaid or at all shall not in any manner invalidate or affect the election.

*[Rule 11 amended in Gazette 10 January 1975 p. 56.]*

### **Part III — Meetings**

**12. Meetings to be held**

Meetings of the Board shall be held when and as often as necessary and shall be convened by the Secretary whenever required in writing by the Chairman or any 2 members of the Board.

**13. Convening of meetings**

Subject to rule 13A, meetings shall be convened by posting or delivering to each member 24 hours' written notice stating the time and place of such meeting. The omission to post or deliver any such notice within such time or at all, or the non-receipt thereof, shall in no manner effect or prejudice anything done or agreed to at any meeting.

*[Rule 13 amended in Gazette 9 May 2003 p. 1620.]*

**13A. Urgent convening of meetings**

If at a meeting of a Committee of the Board at which not less than 4 members of the Board are present the Committee has a bona fide belief that the urgency of the situation requires an immediate decision of the Board, that Committee may immediately sit as the Board for the purposes of making that decision.

*[Rule 13A inserted in Gazette 9 May 2003 p. 1620.]*

**14. Quorum**

If a quorum of members be not present within 15 minutes of the time for which the meeting is convened, it may be adjourned to such time and place as those present shall determine.

**15. Voting at meeting**

At all meetings of the Board voting shall be by show of hands, unless in any case a ballot shall be called for by any 2 members present.

**16. Rescission or amendment**

No resolution arrived at or act, matter, or thing done or authorised by or at any meeting shall be rescinded or amended at any subsequent meeting unless either notice of such intended rescission or amendment be given in the notices convening the meeting at which such rescission or amendment is proposed, or an absolute majority of the total members of the Board vote in favour of such rescission or amendment.

**17. Minutes**

Minutes of every meeting shall be kept by the Secretary and such minutes when signed by the Chairman of the same or any subsequent meeting shall be binding and conclusive for all purposes.



## **Part IV — Articled clerks**

*[Heading inserted in Gazette 24 November 1995 p. 5395.]*

### **Division 1 — Articles**

*[Heading inserted in Gazette 24 November 1995 p. 5395.]*

#### **18. Definitions**

In this Part —

**“approved degree”** means the degree or other qualification that a person holds if that person has —

- (a) fulfilled all the requirements of the University of Western Australia for a degree in law;
- (b) such other qualification as in the opinion of the Board is substantially equivalent to the degree referred to in paragraph (a);

**“articles”** means articles of clerkship entered into with a principal;

**“principal”** means a practitioner in practice in Western Australia;

**“5 year articled clerk”** means a person who has entered into 5 years’ articles under section 15(2)(b) of the Act.

*[Rule 18 inserted in Gazette 24 November 1995 p. 5395.]*

#### **19. Term of articles**

- (1) For the purposes of section 15(2)(a) of the Act, the prescribed term of articles is one year unless subrule (2) applies.
- (2) The prescribed term of articles is 6 months if the Board is satisfied that the person seeking to be admitted as a practitioner has, within 2 years before commencing service under articles or subsequently, been engaged in employment that, although not

under articles, provided sufficient professional training and experience to justify the application of this subrule.

*[Rule 19 inserted in Gazette 24 November 1995 p. 5395; amended in Gazette 22 January 1999 p. 216.]*

**20. Application for approval to registration of articles**

A person may apply to the Board for its approval to the registration of articles by lodging with the Board —

- (a) a signed deed of articles of clerkship substantially in the form of Form A in Schedule 1;
- (b) an application in Form B in Schedule 1;
- (c) 2 certificates as to character in Form C in Schedule 1 each signed by a practitioner of at least 2 years' standing and in practice, or other evidence acceptable to the Board that the applicant is of good fame and character; and
- (d) evidence that the applicant —
  - (i) has an approved degree; or
  - (ii) in the case of a 5 year articled clerk —
    - (A) has a degree from any of the Universities in Western Australia or an academic qualification that would enable the person to gain admission to a degree course offered by any of those Universities; or
    - (B) has, in the Board's opinion, sufficient academic or work achievements or both to enable the applicant to pursue satisfactorily the course of study prescribed by these rules for 5 year articled clerks.

*[Rule 20 inserted in Gazette 24 November 1995 pp. 5395-6;  
amended in Gazette 22 January 1999 pp. 217 and 218;  
19 May 2000 p. 2437.]*

**21. Assignment of articles**

An application for approval to the registration of an assignment of articles under section 11 of the Act is to be in Form D in Schedule 1 and is to be accompanied by a deed of assignment substantially in the form of Form E in Schedule 1.

*[Rule 21 inserted in Gazette 24 November 1995 p. 5396;  
amended in Gazette 22 January 1999 pp. 217 and 218;  
19 May 2000 p. 2437.]*

**22. New articles where practitioner ceases to be entitled to have an articled clerk**

- (1) If a practitioner to whom an articled clerk is articled ceases, before the completion of those articles, to be entitled to have an articled clerk, the clerk may apply in Form F in Schedule 1 for the Board to cancel the articles and approve the registration of new articles with another practitioner for the unexpired balance of the term of the former articles.
- (2) An application under subrule (1) is to be accompanied by a signed deed of articles of clerkship substantially in the form of Form A in Schedule 1.

*[Rule 22 inserted in Gazette 24 November 1995 p. 5396;  
amended in Gazette 22 January 1999 pp. 217 and 218;  
19 May 2000 p. 2437.]*

*[22A. Repealed in Gazette 19 May 2000 p. 2437.]*

**23. Applications for the Board's approval**

- (1) If an application is made for the Board's approval under this Division, the Board may require more information on any aspect of the application.

- (2) The Board may approve an application made to it for its approval under this Division, with or without imposing any conditions, or may reject the application.

*[Rule 23 inserted in Gazette 24 November 1995 p. 5396.]*

**24. Registration of articles or assignments, and fee**

- (1) An applicant who applies for the Board's approval to the registration of articles or an assignment of articles under these rules is to lodge the articles or assignment of articles with the Board for registration.
- (2) An applicant who applies for the Board's approval to the registration of articles under these rules is to pay a fee of \$150.
- (3) Registration takes effect from the date determined by the Board.

*[Rule 24 inserted in Gazette 24 November 1995 p. 5396.]*

**25. Conduct of articled clerks**

- (1) An articled clerk is to —
- (a) comply with the proper standards of the legal profession as expected of articled clerks;
  - (b) attend all courses of study required by the Board or these rules to be attended by articled clerks in general or the articled clerk in particular; and
  - (c) attend to the duties required of the articled clerk by his or her principal in the course of the principal's practice.
- (2) As soon as practicable after the completion of articles, the articled clerk is to lodge with the Board a certificate in Form G in Schedule 1 given by every practitioner with whom the articled clerk has served articles, certifying as to the conduct of the articled clerk during the relevant period of service, or such other evidence as the Board may require.

*[Rule 25 inserted in Gazette 24 November 1995 p. 5396; amended in Gazette 22 January 1999 p. 218.]*

**25A. Conduct of principals**

A principal is to —

- (a) ensure that his or her articled clerk is provided with —
  - (i) an appropriate working environment; and
  - (ii) proper supervision and instruction;
- (b) ensure that his or her articled clerk is not required to carry out duties that are not related to the principal's practice or to the practice of law generally; and
- (c) comply with the proper standards of the legal profession in relation to dealing with articled clerks.

*[Rule 25A inserted in Gazette 22 January 1999 p. 218.]*

**26. Supervision of articled clerks**

- (1) The Board may supervise the conduct of articled clerks during their articles in any manner it may decide, and may require the attendance of an articled clerk or principal before the Board.
- (2) If the Board is satisfied that the articled clerk has not performed or is not performing his or her obligations under his or her articles, the Board may order that any specified period not be counted as service under those articles for the purposes of the Act and these rules.

*[Rule 26 inserted in Gazette 24 November 1995 p. 5397.]*

**Division 2 — Examinations**

*[Heading inserted in Gazette 24 November 1995 p. 5397.]*

**27. Definition**

For the purposes of this Division —

“**ATP**” is an Articles Training Program conducted by the Board, including the assessments and examinations included in that Program; and

“**repealed rules**” means Part IV of these rules as in force on 1 December 1994.

*[Rule 27 inserted in Gazette 24 November 1995 p. 5397.]*

**28. ATP and transitional provisions**

The following examinations are prescribed for the purposes of section 15(2)(a) of the Act —

- (a) for an articled clerk whose articles were registered not later than 1 December 1994 and whose term of articles is due to be completed not later than 31 December 1996, at the clerk's option, either —
  - (i) the Practice Examination relevant to the clerk prescribed by the repealed rules; or
  - (ii) the ATP examinations;and
- (b) for any other articled clerk, the ATP examinations.

*[Rule 28 inserted in Gazette 24 November 1995 p. 5397.]*

**29. 5 year articled clerks' examinations**

The following examinations are prescribed for 5 year articled clerks for the purposes of section 15(2)(b) of the Act —

- (a) such subjects in the degree of Bachelor of Laws at either the University of Western Australia or Murdoch University as the Board determines; and
- (b) for a 5 year articled clerk whose term of articles is to be completed not later than 31 December 1996, at the option of the articled clerk, either —
  - (i) the Practice Examination prescribed by rule 28 of the repealed rules; or
  - (ii) the ATP examinations;or
- (c) for any other 5 year articled clerk, the ATP examinations.

*[Rule 29 inserted in Gazette 24 November 1995 p. 5397.]*

**30. Credits**

The Board may, where it considers appropriate, credit an articled clerk with a pass in any of the examinations referred to in rule 28 or 29 or part of such an examination.

*[Rule 30 inserted in Gazette 24 November 1995 p. 5398.]*

**31. Courses conducted by the Board**

- (1) In relation to an examination conducted by the Board other than an ATP examination, but subject to subrule (3), if an articled clerk does not attend at least 90% of the lectures given in the course conducted by the Board leading to that examination, he or she may not sit for the examination.
- (2) The Board may allow an articled clerk who fails an examination conducted by the Board to sit for a supplementary examination.
- (3) The Board may excuse, on any conditions it thinks fit, an articled clerk from the attendance requirements provided for by subrule (1) if the Board is satisfied that there are special reasons for the clerk not attending the Board's course.
- (4) An articled clerk who has not fulfilled the requirements of an ATP may not sit for the ATP examinations unless the Board is satisfied that special reasons exist.
- (5) Courses and examinations that the Board conducts are to be conducted by the persons, in the manner, at the times, and at the places, that are arranged by the Board.

*[Rule 31 inserted in Gazette 24 November 1995 p. 5398.]*

**Division 3 — Miscellaneous**

*[Heading inserted in Gazette 24 November 1995 p. 5398.]*

**32.        Records**

The Secretary of the Board is to keep appropriate records in relation to articled clerks, and courses and examinations they have taken.

*[Rule 32 inserted in Gazette 24 November 1995 p. 5398.]*

*[33-38. Repealed in Gazette 24 November 1995 p. 5395.]*



## Part V — Managing clerks

### 39. Requirements for approval as a managing clerk

Every applicant for approval as a managing clerk shall lodge with the Board —

- (a) an application in Form H in Schedule 1;
- (b) evidence as to the date and place of his birth;
- [(c) deleted]*
- (d) a certificate as to character in Form C in Schedule 1 signed by 2 practitioners of at least 2 years' standing and in practice, neither of whom shall be a practitioner by whom the applicant is or has at any time been employed as a clerk or managing clerk;
- (e) evidence of the length of time that he has been employed as a clerk or managing clerk in the office of a practitioner or practitioners practising in Western Australia or elsewhere and the nature and general description of the work done by him during the period of his employment;
- (f) a certificate by the practitioner by whom he is employed at the time of the application that the applicant is in his opinion a fit and proper person to be approved as a managing clerk and setting out the practitioner's grounds for such opinion;
- (g) the sum of \$21.

*[Rule 39 amended in Gazette 11 March 1983 p. 824;  
24 November 1995 p. 5398; 22 January 1999 p. 218.]*

### 40. Board may approve or reject application

The Board may approve or reject the application, or may require further evidence or information on any matters relating thereto.

**41. Information and answer to questions**

Every applicant for approval as a managing clerk and the employer or employers of such applicant shall supply to the Board or the Secretary such further information or evidence as the Board may from time to time require and shall, when or as often as required, attend in person before the Secretary or Board and shall answer verbally or in writing all such questions as may be put to them.

**42. Date when applicants employment deemed to commence**

If the Board approves the application, it shall fix the date, not being more than 12 months prior to the date of the application when the applicant's employment as managing clerk shall be deemed to have commenced and shall notify the fact of such approval, together with such date to the applicant.

**43. Prescribed examinations**

For the purposes of section 16(c) of the Act examinations are prescribed as follows —

- (a) the examinations in at least 8 subjects forming part of the degree of Bachelor of Laws at —
  - (i) The University of Western Australia;
  - (ii) Murdoch University; or
  - (iii) The University of Notre Dame Australia,  
chosen in consultation with the Dean of the relevant Law School and approved by the Board;
- (b) the ATP examinations.

*[Rule 43 inserted in Gazette 3 March 1978 p. 635; amended in Gazette 9 May 1980 p. 1451; 2 August 1991 p. 3993; 24 November 1995 p. 5398; 14 May 2004 p. 1519.]*

**44. Approval to be given before sitting for exams**

- (1) No managing clerk shall sit for any of the examinations referred to in rule 43(a) unless he or she has applied for and obtained the approval of the Board as a managing clerk under this Part.
- (2) No managing clerk shall be entitled to sit for any of the examinations referred to in rule 43(b) until he or she has satisfied the examination requirement prescribed in rule 43(a).

*[Rule 44 inserted in Gazette 27 February 1981 p. 800; amended in Gazette 14 May 2004 p. 1519.]*

**45. Period for passing exams**

A managing clerk shall pass the examinations prescribed in rule 43 within a period of not more than 5 years or such extended period as the Board may approve.

*[Rule 45 inserted in Gazette 3 March 1978 p. 636.]*

*[46. Repealed in Gazette 24 November 1995 p. 5398.]*

*[47. Repealed in Gazette 1 December 1961 p. 3310.]*

**48. Records to be kept**

The Secretary shall keep the following records relating to managing clerks —

- (a) A record of all applications for approval as managing clerks under the previous provisions of this Part, including the date of each application, the date of approval by the Board, the date when the applicant's employment as managing clerk shall be deemed to have commenced, the name of the managing clerk, and the practitioner or practitioners by whom he or she is employed, and also all orders and directions made or given by the Board relating to such managing clerks.
- (b) A record of the examinations for which a managing clerk sits and the result thereof.

- (c) A record showing the names of all practitioners by whom managing clerks are employed, and the names of such managing clerks.
- (d) A record showing the names of all managing clerks approved by the Board, and the names of the practitioners by whom they are employed.

*[Rule 48 amended in Gazette 14 May 2004 p. 1519.]*

**49. Board may require answers on conduct of managing clerk**

The Board may at any time require a managing clerk approved by the Board and any practitioner by whom he or she is or has been employed to answer verbally before the Board or in writing such questions touching the conduct of the managing clerk, or as the Board thinks fit, and thereupon the managing clerk and the practitioner shall be bound to answer accordingly.

*[Rule 49 amended in Gazette 14 May 2004 p. 1520.]*

**50. Notification of change of employment**

If at any time a managing clerk approved by the Board changes his or her employment, he or she shall forthwith notify the Secretary of such change and the name or names of the practitioner or practitioners by whom he or she has come to be employed.

*[Rule 50 amended in Gazette 14 May 2004 p. 1520.]*

## Part VA — Control of certain practices

*[Heading inserted in Gazette 12 March 1971 p. 766.]*

### 50A. Service of order to a banker

Whenever an order directed to a banker is made under section 58B, section 58C or section 58(1) of the Act the Secretary as soon as reasonably practicable shall cause a copy of the order to be served on the banker at its Head Office in Perth.

*[Rule 50A inserted in Gazette 12 March 1971 p. 766; amended in Gazette 7 March 1974 p. 741.]*

### 50B. Notice to be given by supervising solicitor

Whenever a supervising solicitor is appointed under the provisions of the Act the supervising solicitor shall as soon as practicable give written notice of his appointment as a supervising solicitor to the clients of the practice who shall at the time of such appointment have current matters in the practice.

*[Rule 50B inserted in Gazette 7 March 1974 p. 741.]*

### 50C. Notice to be given by supervising solicitor in the case of a deceased practitioner

In the case of the practice of a deceased practitioner a supervising solicitor shall not undertake any new work without first disclosing to the client his appointment as a supervising solicitor.

*[Rule 50C inserted in Gazette 7 March 1974 p. 741.]*

### 50D. Conduct of business by supervising solicitor

In the conduct of a practice pursuant to the provisions of this Part a supervising solicitor may do all such acts and things as are usually and reasonably done in or about the conduct of

**r. 50D**

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practices of a similar nature and without limiting the generality of the foregoing the supervising solicitor may in respect of the practice —

- (a) pay all rents and other outgoings payable in respect of the premises in which the practice is conducted or in respect of any chattels utilized in the conduct of the practice.
- (b) employ and dismiss all staff reasonably required for the purpose of conducting the practice and pay all salaries, long service leave, workers' compensation and all other outgoings usually paid in respect of such staff.
- (c) maintain all telephone and electrical services utilized in the practice.
- (d) make the employer's contribution to and continue in a superannuation scheme established for the benefit of the employees of the practice.
- (e) make all necessary tax deductions from salaries of the employees of the practice and from such deductions to purchase such tax stamps as may be required by law.
- (f) pay all insurance premiums for fire, accident or professional indemnity and all other insurances as are usual in practices of a similar nature.
- (g) make such contributions as are required under the *Legal Contribution Trust Act 1967* and withdraw money from the credit of the Trust established by that Act.

*[Rule 50D inserted in Gazette 7 March 1974 p. 741.]*

## **Part VI — Admission of practitioners**

### **51. Requirements for application for admission under section 15(2)(c) or (d) of the Act**

Every applicant for admission as a practitioner under section 15(2)(c) or (d) of the Act, shall at least 3 calendar months or 2 calendar months in the case of an applicant admitted to practise elsewhere in Australia or in New Zealand, but not more than 6 calendar months before he applies to the Court for admission, lodge with the Secretary —

- (i) an affidavit in Form O, together with the exhibits referred to;
- (ii) a certificate of his admission to practise in every court in which he has been admitted to practise; and
- (iii) a certificate from the Registrar or other proper officer of every Court in which he has theretofore been admitted to practise that at the date of such certificate not being more than 4 months prior to the date of the lodging of the affidavit referred to in paragraph (i) the name of the applicant was still on the rolls of the Court and that he had never at any time been struck off or suspended, nor been the subject of a complaint by any person to the Court other than as disclosed in such certificate;
- (iv) a certificate from the Secretary or other responsible officer of any committee or body having authority to deal with complaints against any person entitled to practise before any such Court —
  - (a) that the applicant has not at any time been the subject of any complaint to such committee or body or,
  - (b) if the applicant has been the subject of any such complaint giving details of all complaints against the applicant, including the date or dates of such complaints the nature thereof and the manner in

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which such complaint or complaints have been disposed of;

- (v) a certificate of 2 persons of repute who have known the applicant in the place where he was last practising out of the State certifying that the applicant is well known to them and in their opinion is a fit and proper person to be admitted as a practitioner in the Supreme Court of Western Australia; and
- (vi) the prescribed admission fee.

Every applicant for admission as a practitioner under section 15(2)(c) shall with the foregoing also lodge with the Secretary an affidavit by the applicant defining the system of jurisprudence administered (at the time of his admission) in the Court in which he claims for the purposes of that subsection to be entitled to practise. If the applicant has been required by the Board under section 15(2)(c)(ii) to pass an examination or serve under articles of clerkship he shall with the foregoing also lodge a certificate issued by the Board as to the passing of such examination and a certificate in Form G from every practitioner with whom he has served such articles, or such other evidence as the Board may require.

*[Rule 51 amended in Gazette 19 April 1967 p. 985;  
30 September 1977 p. 3530; 2 September 1988 p. 3395;  
24 November 1995 p. 5399.]*

**51A. Admission fee**

For the purposes of section 20 of the Act and rule 51, the prescribed admission fee is —

- (a) in the case of an applicant who has been admitted and is entitled to practise in the Superior Courts of law in a State or Territory of Australia, \$500; and
- (b) in the case of any other applicant, \$700.



*[Rule 51A inserted in Gazette 14 January 1977 p. 64; amended in Gazette 27 February 1981 p. 800; 4 May 1984 p. 1184; 11 July 1986 p. 2337; 5 April 1991 p. 1401.]*

**52. Application for admission under section 15(2)(a) or (b) or section 16 of the Act**

Every applicant for admission as a practitioner under section 15(2)(a) or (b) or section 16 of the Act shall at least 2 calendar months before he applies to the Court for admission lodge with the Secretary an affidavit in Form I or Form J in Schedule 1, as the circumstances require, together with the prescribed admission fee.

*[Rule 52 amended in Gazette 19 April 1967 p. 985; 2 September 1988 p. 3395<sup>2</sup>; 24 November 1995 p. 5399; 22 January 1999 p. 218.]*

**53. Requirements for admission**

- (1) Every applicant for admission as a practitioner shall —
  - (a) subject to subrule (2), lodge with the Secretary within one calendar month before he applies to the Court for admission a certificate of 2 persons of repute resident in this State who have known the applicant certifying that the applicant is well-known to them and in their opinion is in every respect a fit and proper person to be admitted as a practitioner in the Supreme Court of Western Australia;
  - (b) supply in writing to the Board or the Secretary all such information and evidence as the Board or Secretary as the case may be from time to time require and shall when and as often as required attend in person before the Secretary or Board and answer verbally or in writing all such questions as may be put to him;
  - (c) on at least 2 occasions not more than 28 nor less than 14 days before he applies to the Court for admission and

at an interval of at least 7 days between the first and last of such advertisements advertise in one daily paper published in Perth notice of his intention to apply for admission. Such notice shall be signed by the Secretary and shall be in the Form Q in Schedule 1.

- (2) Subrule (1)(a) does not apply to an applicant for admission as a practitioner under section 15(2)(c) or (d) of the Act.

*[Rule 53 amended in Gazette 12 March 1971 p. 766; 8 March 1991 p. 1032; 22 January 1999 p. 218.]*

**54. Certificate to be produced before admission**

No person shall be admitted as a practitioner unless and until he produces to the Court the certificate in the Form R or in the case of an applicant for admission under section 16 in the Form Ra in Schedule 1. Provided that such certificate shall be of no force or effect unless the applicant is admitted at the sittings of the Full Court next after the date of such certificate.

*[Rule 54 amended in Gazette 22 January 1999 p. 218.]*

*[54A. Repealed in Gazette 19 April 1967 p. 985.]*

**55. Applicant for admission to appear in person**

Every applicant shall attend in person before the Court when his admission is moved and shall produce to the Court the affidavit in the Form S in Schedule 1.

*[Rule 55 amended in Gazette 22 January 1999 p. 218.]*

**55A. Rules may be varied**

If in any case the Board is of opinion that compliance with any rule in this Part is not reasonably practicable the Board may by special order vary the provisions of such rule in that particular case.

*[Rule 55A inserted in Gazette 30 September 1977 p. 3530.]*

## **Part VII — Re-admission of practitioners**

**56. Application for re-admission**

Every person who shall have been struck off the rolls of the Court and shall desire to be re-admitted shall 3 calendar months before he applies to the Court to be so admitted lodge with the Board an affidavit in the Form T in Schedule 1 together with a fee of \$63.

*[Rule 56 amended in Gazette 22 January 1999 p. 218.]*

**57. Certificates with affidavit**

There shall be exhibited to the said affidavit certificates from all persons by whom the applicant has been employed since he was struck off the rolls and from at least 2 other persons of good repute and standing stating how long they have known the applicant, that in their belief he has not since he was struck off the rolls been guilty of any dishonourable or unworthy conduct and that he is in every respect a fit and proper person to be admitted as a practitioner.

**57A. Board to fix time and place for examination of applicant**

On receipt of the affidavit the Board shall fix a time and place for the examination of the applicant on his affidavit and the hearing of verbal evidence from the persons who shall have made the certificate exhibited thereto. The Board shall give not less than 7 days' notice in writing of such time and place to the applicant and to all the aforesaid persons.

*[Rule 57A inserted in Gazette 1 December 1961 p. 3311.]*

**57B. Secretary may issue summons**

The Secretary may, and at the request of the practitioner shall, issue a summons for the attendance of any person or the production of any documents whom or which the Board or the applicant may think fit to call or have produced at the aforesaid

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hearing. The summons shall be in such form as the Board may from time to time approve.

*[Rule 57B inserted in Gazette 1 December 1961 p. 3311.]*

**57C. Conduct of hearing**

The Board may instruct counsel to appear and examine the applicant and the other witnesses at the hearing and the applicant may appear in person or by solicitor or by counsel and may examine any witness.

The hearing shall be conducted in such manner as the Board may determine and the Board may adjourn the hearing from time to time.

*[Rule 57C inserted in Gazette 1 December 1961 p. 3311.]*

**57D. Recording evidence**

The evidence given at the hearing shall be recorded by the Secretary or by such other person as the Board may appoint whether a member of the Board or not.

*[Rule 57D inserted in Gazette 1 December 1961 p. 3311.]*

**57E. Board may refuse or approve application**

The Board may at its discretion approve the application or withhold its approval and if it approves the application it shall issue a certificate to the applicant in the Form R in Schedule 1.

*[Rule 57E inserted in Gazette 1 December 1961 p. 3311; amended in Gazette 22 January 1999 p. 218.]*

**57F. Rules which apply to applicants for re-admission**

Rules 54 and 55 and 53(c) shall apply to applicants for re-admission but not rules 51, 52 or 53(a) or 53(b).

*[Rule 57F inserted in Gazette 1 December 1961 p. 3311.]*

**58. Application for re-admission to be advertised**

If and whenever the Board approves such application the applicant shall advertise notice of his intention to apply for re-admission in such manner and place for such time as mentioned in rule 53(c) or otherwise as the Board shall in writing require.

[59. *Repealed in Gazette 1 December 1961 p. 3311.*]

## **Part VIII — Practice certificates**

### **60. Annual fee**

- (1) Subject to subrule (2) the annual fee to be paid by each practitioner for the issue of each annual practice certificate is \$450.
- (2) If a practice certificate is issued before 30 June in a calendar year in respect of a period ending on that 30 June, the fee payable is \$225.

*[Rule 60 inserted in Gazette 1 May 1992 p. 1797<sup>3</sup>; amended in Gazette 20 June 1995 p. 2402; 18 June 2002 p. 2867.]*

### **61. Form of annual practice certificate**

On application being made in Form U of Schedule 1 by any practitioner and payment by him of the prescribed fee the Board shall issue to him an annual practice certificate in Form V of Schedule 1 which shall be current until 30 June next following the date of issue.

Such certificate shall be issued only in the name of the practitioner as it appears on the Roll of Practitioners in the custody of the Registrar of the Supreme Court at the date on which such certificate is issued.

*[Rule 61 amended in Gazette 30 September 1955 p. 2512; 11 March 1983 p. 824; 22 January 1999 p. 218.]*

### **62. Register to be kept**

The Secretary of the Board shall on receipt of any application for an annual practice certificate accompanied by the amount of the prescribed fee endorse on such application the date of its receipt by him and shall enter a memorandum of such endorsement together with the particulars furnished in a register to be kept by him.

**63.      Changed particulars to be notified and register to be amended**

If any of the particulars furnished by a practitioner in an application for a practice certificate ceases to be true and accurate at any time before the practice certificate issued with respect to that application expires, the practitioner shall notify the Secretary immediately of the changed particulars and the Secretary shall amend the register kept under this Part accordingly.

*[Rule 63 inserted in Gazette 11 March 1983 p. 824.]*

*[64.                  Repealed in Gazette 11 March 1983 p. 824.]*

**65.      Service of documents**

Where by these rules any notice or other document is required to be served or given to any practitioner service may be effected by posting such notice or document to him at his address appearing in the Register kept under this Part.

## **Part VIIIA — Solicitors' Guarantee Fund**

*[Heading inserted in Gazette 21 May 1968 p. 1427.]*

### **65A. Annual amount payable**

The annual amount payable to the Board by a practitioner obliged to make annual payments under the provisions of section 42(1) of the *Legal Practitioners Act 1893*, for application to the Solicitors' Guarantee Fund established under the *Legal Contribution Trust Act 1967*, shall be \$20.

*[Rule 65A inserted in Gazette 21 May 1968 p. 1427.]*

*[Part IX (rules 66-77) repealed in Gazette 1 September 2000 p. 5012.]*



## Part X — Law Library

*[Heading inserted in Gazette 9 February 1959 p. 367.]*

### 78. Interpretation

In this Part, subject to the context —

“**book**” means any book, newspaper, periodical, picture, photograph, microfiche or written or printed article or other writing in or used in connection with the Library, and includes the cover or frame of a book or picture;

“**Librarian**” means the person for the time being in charge of the Library and any staff under his supervision;

“**Library**” means the Law Library in the Supreme Court Building at Perth and the branch of that library in the Central Law Courts Building at Perth;

“**Library Committee**” means the committee of the Board designated by the Board as the Library Committee.

*[Rule 78 inserted in Gazette 9 February 1959 p. 367; amended in Gazette 2 March 1984 p. 541; 18 March 1994 p. 1043.]*

### 79. Persons who are entitled to use the Library

- (1) Subject to these rules, the following persons are entitled to use the Library free of charge —
  - (a) the Judiciary and the Magistracy;
  - (b) other members or officers of the Courts, Tribunals and Boards of the State or the Commonwealth, practitioners in the employ of the Crown, certificated practitioners, and members and officers of the Legislature;
  - (c) clerks or officers employed by or acting on the directions of any such person;
  - (d) public service officers and statutory officers of the State and members of the police force of the State.

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- (2) The Librarian may require persons described in subrule (1)(b), (c) and (d) to register as users of the Library before they use the Library.

*[Rule 79 inserted in Gazette 18 March 1994 p. 1044.]*

**79A. Entitlement may be suspended by Librarian**

- (1) The Librarian may summarily suspend the entitlement of a person to use the Library for such period as the Librarian thinks fit.
- (2) Where the entitlement of a person is suspended under subrule (1) the Librarian may exclude the person from the Library or cause the person to be removed from the Library.
- (3) The Librarian is to promptly report any suspension imposed under subrule (1) to the Library Committee which may —
- (a) withdraw the suspension;
  - (b) confirm the suspension as imposed; or
  - (c) confirm the suspension but alter its terms.
- (4) The Board may review a suspension imposed under this rule, or the terms of such a suspension, and may —
- (a) withdraw the suspension;
  - (b) confirm the suspension as imposed; or
  - (c) confirm the suspension but alter its terms.

*[Rule 79A inserted in Gazette 18 March 1994 p. 1044.]*

**79B. Entitlement may be cancelled or suspended by the Board**

Whether or not a suspension has been imposed under rule 79A the Board may, for any cause it regards as sufficient —

- (a) suspend the entitlement of a person to use the Library for such period as the Board thinks fit; or
- (b) cancel that entitlement.

*[Rule 79B inserted in Gazette 18 March 1994 p. 1044.]*

**79C. Other persons may be permitted to use the Library**

- (1) The Library Committee or the Librarian may permit a law student to use the Library free of charge at such times and on such terms as the Library Committee or the Librarian determines and the Librarian may require a law student to register as a user of the Library before he or she so uses the Library.
- (2) The Library Committee or the Librarian may permit persons or classes of persons other than those referred to in rule 79 and subrule (1), including litigants in person, to register as users of the Library and to use the Library at such times and on such terms (including terms as to payment for use of the Library) as the Library Committee or the Librarian determines.
- (3) In deciding whether to allow a person to register as a user under subrule (2) and on the times at which, terms on which or extent to which a person is permitted to use the Library, the Library Committee and the Librarian may have regard to the resources available in other libraries.

*[Rule 79C inserted in Gazette 18 March 1994 p. 1045.]*

**79D. Permission may be withdrawn**

With the approval of the Library Committee the Librarian may withdraw any registration, permission or privilege that has effect under or for the purposes of rule 79C.

*[Rule 79D inserted in Gazette 18 March 1994 p. 1045.]*

**79E. Times during which Library can be used**

- (1) The Library is to be open during such hours as the Board may from time to time direct.

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- (2) The Librarian may make arrangements for the use of the Library at times other than when the Library is open.

*[Rule 79E inserted in Gazette 18 March 1994 p. 1045.]*

**80. Repair of books**

The Librarian may remove or authorise the removal from the Library of any book for the purpose of binding or repair.

*[Rule 80 inserted in Gazette 2 March 1984 p. 541.]*

**81. Books not to be removed from Library**

- (1) No person shall remove any book from the Library for any purpose other than immediate use in a hearing before a member of the Judiciary or the Magistracy in the building in which the Library is situated unless he has applied for and obtained the permission of the Librarian and completed the recording procedure referred to in subrule (6).
- (2) No book shall be removed from the Library more than one hour before the hearing referred to in this rule.
- (3) Every book removed from the Library shall be returned to its proper place within the Library within 30 minutes of the termination of the relevant hearing on the day on which the book is removed, unless the Librarian approves of the book's being left on a Library table.
- (4) A person shall not leave unattended any book in any place other than the Library.
- (5) Without the permission of the Librarian, a person shall not remove from the Library a book upon which is displayed a notice to the effect that the book is not to be removed from the Library.
- (6) No book shall be removed from the Library unless the user shall have recorded his name, his office, firm or department, the date

and the title of the book on a form provided by the Librarian for the purpose.

*[Rule 81 inserted in Gazette 9 February 1959 p. 368; amended in Gazette 28 April 1959 p. 1139; 2 March 1984 p. 541; 18 March 1994 p. 1045.]*

**82. Librarian to have general control**

Subject to the directions of the Board and the Library Committee, the Librarian has the general control and charge of the Library and is responsible for the safe custody of the books.

*[Rule 82 inserted in Gazette 9 February 1959 p. 368; amended in Gazette 18 March 1994 p. 1045.]*

**82A. Directions to Librarian**

- (1) The Board or the Library Committee may give the Librarian a direction, either generally or in a particular case, in respect of the Librarian's functions under this Part.
- (2) A direction given by the Library Committee does not preclude the Board from giving a different direction in the same matter, but if that should occur the Librarian is to comply with the direction of the Board.

*[Rule 82A inserted in Gazette 18 March 1994 p. 1045.]*

**83. Provisions applicable to person using Library**

- (1) A person using the Library shall comply with the reasonable directions of the Librarian.
- (2) A person shall not obstruct or hinder the Librarian in the performance of his duties.

*[Rule 83 inserted in Gazette 9 February 1959 p. 368; amended in Gazette 2 March 1984 p. 541.]*

**84. Librarian may inspect baggage**

The Librarian may open and inspect any case, bag, parcel or receptacle brought to or found in the Library.

*[Rule 84 inserted in Gazette 9 February 1959 p. 368; amended in Gazette 2 March 1984 p. 541.]*

**85. Book to be returned to its proper place**

A person who uses or has in his possession any book shall return it to its proper place in the Library.

*[Rule 85 inserted in Gazette 9 February 1959 p. 368.]*

**86. Books not to be misplaced or secreted**

A person shall not misplace or secrete any book.

*[Rule 86 inserted in Gazette 9 February 1959 p. 368.]*

**87. Books not to be damaged, etc.**

A person shall not mark, damage or destroy any book.

*[Rule 87 inserted in Gazette 9 February 1959 p. 368.]*

**88. Person to report damaged book**

A person who uses or has in his possession a book which is marked, damaged or in imperfect condition shall report the fact to the Librarian.

*[Rule 88 inserted in Gazette 9 February 1959 p. 368.]*

**89. Sale or removal of any book**

Notwithstanding any other rule, the Board or the Librarian with the authority of the Board may, on and subject to such conditions as the Board may decide, permit the sale or removal of any book.

*[Rule 89 inserted in Gazette 9 February 1959 p. 368; amended in Gazette 2 March 1984 p. 541.]*

**89A. No smoking or eating**

No person shall smoke or eat in the Library.

*[Rule 89A inserted in Gazette 2 March 1984 p. 541.]*

**[89B.]** *Repealed in Gazette 18 March 1994 p. 1046.]*

## **Part XI — Trust accounts rules**

*[Heading inserted in Gazette 10 November 1972 p. 4333.]*

### **Division I — Application of trust accounts rules**

*[Heading inserted in Gazette 10 November 1972 p. 4333.]*

#### **90. Interpretation and application**

- (1) In this Part “**these rules**” mean the rules contained in this Part.
- (2) These rules apply to every practitioner who, in the course of the practice of his profession, receives, holds or pays any money for or on account of any client.

*[Rule 90 inserted in Gazette 10 November 1972 p. 4333.]*

### **Division II — Rules relating to books of account and other accounting records required to be kept by practitioners**

*[Heading inserted in Gazette 10 November 1972 p. 4333.]*

#### **91. Accounting records**

- (1) Subject to this rule, every practitioner shall, in connection with his practice —
  - (a) open and retain in his place of business;
  - (b) keep in accordance with this Division, and comply with the other provisions of this Division with respect to; and
  - (c) at all times cause to be kept written up,such books of account and other accounting records as are necessary to show and to distinguish between —
  - (i) money received from or held on account of each client; and
  - (ii) money received, or held or paid, on account of the practitioner himself.



- (2) Notwithstanding subrule (1) —
- (a) where 2 or more practitioners are engaged in the practice of their profession in partnership, the books of account and other accounting records referred to in that subrule may be kept for or in respect of the transactions of the partnership; and
  - (b) the Board may require a practitioner who carries on his practice in more than one place of business to keep in each such place and with respect to his practice in each such, a separate set of books of account and other accounting records which comply with requirements of this Division.
- (3) A practitioner who is required by the Board to keep a separate set of books of account and other accounting records pursuant to subrule (2) shall comply with that requirement.

*[Rule 91 inserted in Gazette 10 November 1972 p. 4333.]*

**92. Trust moneys to be deposited to a trust account**

In accordance with section 34(1) of the Act every practitioner who receives trust moneys shall unless then dealing with them as directed by the person from whom or for whose use or benefit they are received forthwith deposit them to the credit of a trust account whether a general trust account or an account maintained for one or other of those persons specifically and there retain them until such time as they are dealt with as so directed or until they are otherwise dealt with according to Law.

*[Rule 92 inserted in Gazette 10 November 1972 p. 4333.]*

**93. Books of account**

- (1) Without limiting the generality of subrule (1) of rule 91 the books of account and other accounting records required to be kept by a practitioner under that subrule shall, subject to this rule, include —

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- (a) a record of money received;
- (b) bank deposit records;
- (c) a cash book;
- (d) a trust cheque book;
- (e) a trust ledger;
- (f) a trust account bank statement;
- (g) the reconciliation accounts or statements referred to in rule 99;

and

- (2) Bank deposit records shall comprise a carbon copy of every bank deposit form.
- (3) Subject to subrule (4), the books of account and other accounting records may be kept on loose leaves or cards.
- (4) Where a cash book is kept on loose leaves or cards pursuant to subrule (3), the loose leaves or cards shall be fixed together securely and in proper sequence at intervals of not longer than 12 months.
- (5) Notwithstanding subrule (1), where a practitioner, at the same time as he makes an entry in a trust ledger, makes as part of a continuous record of ledger entries a duplicate or true copy of that entry, the continuous record shall be deemed to be a cash book for the purposes of that subrule.
- (6) Where a continuous record as is referred to in subrule (5) is kept on loose leaves or cards, the record shall be fixed together securely and in proper sequence at intervals of not longer than 12 months.
- (7) Without prejudice to any rule of Law or Equity to the contrary and for the purposes only of these rules every trust ledger and the source documents referred to in rule 94(4) and cash book

shall be retained and preserved in good order and condition for at least 7 years.

*[Rule 93 inserted in Gazette 10 November 1972 pp. 4333-4.]*

**94. Trust ledger**

- (1) A trust ledger shall be used to record —
  - (a) the receipt and deposit of moneys for or on account of a practitioner's clients;
  - (b) the receipt and debiting of a practitioner's charges;
  - (c) the payment by a practitioner of out-of-pocket payments or disbursements on behalf of a client and the repayment thereof to the practitioner.
- (2) Subject to subrule (3), a practitioner may pay out of the trust account money for or on account of a client, notwithstanding that the practitioner does not hold in the trust account money, or sufficient money, for that payment if, for the whole of the period during which such a payment results in a debit balance in the client's ledger account the practitioner retains in the trust account sufficient money belonging to the practitioner —
  - (a) to cover the debit balance; and
  - (b) which is clearly recorded and identified in the trust account as his own money.
- (3) Notwithstanding subrule (2), a practitioner is not required to retain money belonging to him in his trust account to cover a debit balance in a client's ledger account, if the debit balance —
  - (a) is properly shown by adjacent particulars (being particulars that are typewritten or written in ink in the trust ledger) as being covered by a credit balance in another ledger account in the practitioner's trust ledger;  
or
  - (b) arises from the debiting of a cheque which has been properly used to obtain on behalf of a client a bank or other financial institution cheque, if and while that

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cheque properly remains in the possession of the practitioner pending the proper disposition thereof.

- (4) Accurate details of every entry in a practitioner's trust ledger shall be set out therein against the entry or be readily available from source documents and, in particular, all charges by the practitioner which are debited in the trust ledger shall be clearly identified.
- (5) A practitioner may withdraw from the trust account, and apply to his own use, all moneys in the account representing the practitioner's charges paid by clients if such a withdrawal does not result in a debit balance in a client's account in the practitioner's trust ledger which is not covered by money belonging to him and retained in the trust account in accordance with subrule (2).

*[Rule 94 inserted in Gazette 10 November 1972 p. 4334; amended in Gazette 24 November 1998 p. 6317.]*

**95. Written record of all money received**

- (1) A practitioner shall make a written record of all money received by him for or on account of a client.
- (2) Every such record shall be recorded in his cash book and in his trust ledger.
- (3) Every record of money received by a practitioner shall contain the following particulars, namely —
  - (a) the date the money is received;
  - (b) the amount of money received;
  - (c) the name of the client by or on whose account the money is paid; and
  - (d) other particulars sufficient to identify the transaction in respect of which the money is received.

- (4) A practitioner who received a payment by way of direct credit to the trust account shall, on becoming aware of the payment record such payment in his Cash Book or his Trust Ledger incorporating therein the particulars prescribed by subrule (3).

*[Rule 95 inserted in Gazette 10 November 1972 p. 4334.]*

**95A. Direction to be in writing**

- (1) A direction given pursuant to section 34(1) of the Act by a person from whom, or for whose use or benefit, trust moneys are received by a practitioner must be in writing and be signed by that person, except where those moneys are paid to that person.
- (2) A practitioner to whom a direction is given in accordance with section 34(1) of the Act and subrule (1) of this rule shall —
- (a) cause an adequate record of the transaction to be made and to be either included in the books of account and other accounting records required to be kept under this Part or placed on the file relating to the matter in question; and
  - (b) retain that record and the direction and preserve them in good order and condition for at least 7 years.
- (3) Subrule (1) does not apply in respect of the disposition of moneys which are deposited in a trust account.

*[Rule 95A inserted in Gazette 4 May 1984 p. 1184; amended in Gazette 14 September 1984 p. 2906.]*

**96. Bank deposit record**

- (1) The practitioner's bank deposit record referred to in rule 93 shall make provision for the entry of the following particulars, namely —
- (a) the date of the deposit;
  - (b) whether the amount deposited consists of money or cheques or both, as the case may be;

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- (c) the name of the drawer of every cheque deposited; and
  - (d) the total amount of the deposit.
- (2) Where a practitioner pays or deposits any money into the trust account, he shall —
- (a) before making the payment or deposit, make a carbon copy of the bank deposit record;
  - (b) ensure that the carbon copy of the bank deposit record is stamped by the bank with which the payment or deposit is made; and
  - (c) retain the carbon copy of the bank deposit record.

*[Rule 96 inserted in Gazette 10 November 1972 p. 4334.]*

**97. Cheques**

- (1) Every cheque drawn by a practitioner on the trust account shall be numbered and drawn consecutively and the number of the appropriate cheque shall be recorded in the practitioner's cash book and in his trust ledger against the entry therein relating to that cheque.
- (2) A cheque drawn by a practitioner on the trust account shall —
- (a) not be made payable to cash;
  - (b) be crossed generally or specifically and marked "not negotiable"; and
  - (c) be signed by the practitioner, a partner of the practitioner or 2 persons authorised by the practitioner in writing to sign cheques drawn by the practitioner on the trust account.

*[Rule 97 inserted in Gazette 10 November 1972 p. 4334; amended in Gazette 30 August 2002 p. 4458.]*

**97A. Electronic transfer of funds**

- (1) An electronic transfer of funds in a trust account by a practitioner shall be effected by —

- 
- (a) the practitioner;
  - (b) a partner of the practitioner; or
  - (c) 2 persons authorised by the practitioner in writing to effect an electronic transfer of the funds from the trust account concerned.
- (2) The practitioner must ensure that the following particulars are kept in relation to each transfer effected under subrule (1) —
- (a) the name of the practitioner or partner who effected the transfer or, if the transfer was effected by 2 persons authorised in writing, the names of those persons;
  - (b) details identifying the trust ledger account from which the funds were transferred and the name of the person on whose behalf the funds were transferred;
  - (c) brief particulars of the subject matter and the purpose for which the funds were transferred;
  - (d) a number or other means of identification of the transfer by reference to a numerical sequence of payments from the trust account concerned;
  - (e) the name or type of the bank account to which the funds were paid, its number and the identifying numbers of the receiving bank and its branch;
  - (f) the date of the transfer and the amount transferred.

*[Rule 97A inserted in Gazette 9 May 2003 p. 1620-1.]*

**98. Account in trust ledger**

- (1) Every account in a practitioner's trust ledger shall be kept —
  - (a) under the name or names of the client or clients for whom or on whose behalf the money recorded therein was received or paid away or is held; or
  - (b) under the title of the practitioner's file to which such account relates.

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**Division II** Rules relating to books of account and other accounting records required to be kept by practitioners

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- (2) Where a practitioner acts and holds money for more than one party to a transaction, the practitioner —
- (a) shall keep a separate account in his trust ledger with respect to each of those parties and shall as soon as possible make all proper transfers between each of those accounts; or
  - (b) shall keep a separate account in his trust ledger in respect of each file which relates to any matter in which money is received by the practitioner by or on behalf of more than one party and such account in addition to showing the title of the relevant file shall also record all moneys received or paid away or held for any person who is a party to the transaction to which that file relates.

*[Rule 98 inserted in Gazette 10 November 1972 p. 4335.]*

**99. Trust account to be balanced**

- (1) A practitioner shall, at least once in every month and at intervals of not longer than 6 weeks, cause —
- (a) the trust ledger to be balanced; and
  - (b) an account or statement to be drawn up reconciling, in accordance with subrule (2), the balance of the trust ledger with the trust account bank statement or bank statements for the period which has elapsed since the last balance.
- (2) A reconciliation for the purposes of subrule (1) —
- (a) shall be made in accordance with the following provisions —
    - (i) There shall be set out the balance in the trust ledger as at the end of the preceding period of reconciliation;
    - (ii) There shall be added to the balance referred to in paragraph (a) the total of the moneys paid into



the trust account during the period covered by the reconciliation and there shall be deducted from that balance the total of the moneys paid from the trust account during that period;

- (iii) Moneys received by way of direct credit in the bank to the trust account during the period of reconciliation and amounts debited by the bank to the trust account and for which no cheques were drawn shall be set out in the reconciliation as distinct items;
- (iv) Moneys received for the trust account during the period of reconciliation, but not banked therein, shall be set out in the reconciliation, as a distinct item; and
- (v) Every cheque drawn on the trust account during the period of reconciliation (being a cheque which has not been presented to, and debited by, the bank in the bank statement) shall be set out separately in the reconciliation, by cheque number and amount;

or

- (b) shall be made in accordance with a system approved by the approved accountant who examines the reconciliation for the purposes of giving a Certificate pursuant to Division III.
- (3) For the purposes of subrule (2) “**approved accountant**” means an accountant who is registered or approved as required by section 42A of the Legal Practitioners Act.

*[Rule 99 inserted in Gazette 10 November 1972 p. 4335.]*

**Division III — Provisions relating to the furnishing of accountants' Certificates and reports to the Board**

*[Heading inserted in Gazette 10 November 1972 p. 4335.]*

**100. Interpretation**

In this Division —

**“approved accountant”** means an accountant who is registered or approved as required by section 42A of the Legal Practitioners Act;

**“Certificate”** means a Certificate by an approved accountant with respect to a practitioner's accounting records;

**“Practitioner's accounting records”** means the books of account and other accounting records required to be kept by a practitioner under rule 91(1).

*[Rule 100 inserted in Gazette 10 November 1972 p. 4335.]*

**101. Certificate to be furnished**

- (1) Every practitioner shall furnish the Board with a Certificate in accordance with Form AA in Schedule 1 on or before 30 June 1973 in respect of the period from and including the first day of the month next following the gazettal of these Rules and 31 March 1973 and thereafter on or before 30 June in each year in respect of the period from and including the first day of April in the year immediately preceding 31 March of the year in which the Certificate is furnished to the Board.
- (2) For the purpose of furnishing the Board with a Certificate under subrule (1) a practitioner shall supply an approved accountant with particulars of every bank account kept, maintained, or operated by the practitioner in his practice at any time during the period to which the Certificate relates and all other information which the approved accountant reasonably requires for the purpose of carrying out the prescribed examinations.
- (3) For the purposes of subrule (2) “the prescribed examinations” are —
  - (a) an examination of the book keeping system in every place of business of the practitioner to enable the

approved accountant to verify that the system appears to comply with the requirements of Division II;

- (b) a test check of a number of postings to the trust ledger or ledgers from records of receipts and payments of clients' moneys, and a test check of the arithmetical accuracy of those accounts;
- (c) a comparison of a sample of lodgments into, and payments from, the trust account, as shown in bank statements, with the records of receipts and payments of clients' moneys;
- (d) an inquiry into, and a test check of, the system of recording costs and of making withdrawals in respect of costs from the trust account;
- (e) a selection of some transactions recorded in the trust ledger or ledgers during the period covered by the Certificate in order to ascertain —
  - (i) whether the entries relating to those transactions reflect, and are in accordance with, the respective rights of the clients as those rights appear to the approved accountant from the documents held by the practitioner; and
  - (ii) that the accounting has been carried out in accordance with Division II;
- (f) a test check of the extraction of a balance of the trust ledger accounts at any one date during the period covered by the report; and
  - (i) a test check of the additions of the extraction of balances;
  - (ii) a check of the reconciliation of the total of the balance with the balance or balances shown in the bank statement or bank statements;
  - (iii) a check that any amount shown in the reconciliation as being money in hand and not

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- deposited, was promptly deposited thereafter;  
and
- (iv) a confirmation directly with the bank or banks concerned of the accuracy of the bank balance or bank balances used in the reconciliation;
  - (g) a check that, as at the date chosen for the examination of the extraction of balances and the check of the reconciliation, the total of any debit balances in the trust ledger accounts was covered in compliance with rule 94(2); and
  - (h) a test check of moneys taken to the credit of the office account of the practitioner with a view to ascertaining that the credit was not of moneys which should have been credited to a client's trust account.
- (4) Subject to this rule, nothing in the foregoing provisions of this rule requires an approved accountant —
- (a) to extend his inquiries beyond the information contained in the accounting records and other relative documents produced to him by a practitioner, supplemented by such information and explanations as he may obtain from the practitioner;
  - (b) to inquire into the stocks, shares, mortgages, or other securities or documents held by a practitioner on behalf of a client;
  - (c) to consider whether a practitioner's accounting records have been properly written up at any time other than at the time to which his examinations relates; or
  - (d) in the absence of suspicion or irregularity beyond trivial errors or mere clerical errors or mistakes to extend a test check beyond an inspection of more than a few isolated transactions.
- (5) Notwithstanding subrule (4)(b), a practitioner shall produce to an approved accountant who is in the course of examining the

practitioner's accounting records, any stocks, shares, mortgages, or other securities or documents held by the practitioner on behalf of a client and called for by the approved accountant.

- (6) Notwithstanding subrule (4)(c), where an approved accountant, in the course of examining a practitioner's accounting records forms the opinion that those records were in disorder at any time during the accounting period and that there should be a closer examination thereof, he shall so report to the Board.
- (7) If, after making, or during the making of, the prescribed examinations in accordance with this rule, it appears to an approved accountant that there is evidence of non-compliance by a practitioner with the requirements of this Part, the accountant may make such further examination as he considers necessary in order to complete his Certificate with or without qualification.
- (8) An approved accountant who supplies a practitioner with a Certificate referred to in subrule (1) for the purpose of enabling the practitioner to comply with that subrule shall at the time when he so supplies that Certificate deliver directly to the Board a copy of that Certificate.

*[Rule 101 inserted in Gazette 10 November 1972 pp. 4335-6; amended in Gazette 13 May 1988 p. 1585; 22 January 1999 p. 218.]*

**102. Effect of privilege**

Nothing in this Division deprives a practitioner of the right, on the ground of privilege as between practitioner and client, to decline to produce any document to an approved accountant who is engaged in an examination for the purposes of this Division and, where a practitioner so declines, that practitioner and the approved accountant shall report to that effect and as to the circumstances thereof in writing to the Board.

*[Rule 102 inserted in Gazette 10 November 1972 p. 4336.]*

## **Part XII — Sharing of costs**

*[Heading inserted in Gazette 6 June 1980 p. 1665.]*

### **103. Persons who may share costs**

Subject to the provisions of this Part, a certificated practitioner may share the whole or any portion of the costs referred to in section 79(4) of the Act with any one or more of the following persons, not being certificated practitioners or their executors or administrators, namely,

- (a) a parent, spouse, de facto partner, child or grandchild of the certificated practitioner or of a partner, also being a certificated practitioner, of the certificated practitioner;
- (aa) a person to whom the certificated practitioner or a partner, also being a certificated practitioner, of the certificated practitioner, stands in loco parentis;
- (b) a trustee of a trust, the only beneficiary or beneficiaries of which is or are one or more of the following —
  - (i) a person referred to in paragraph (a) or (aa);
  - (ii) a certificated practitioner;
  - (iii) a company referred to in paragraph (c);
- (c) a company, the only shares in which are beneficially held by one or more of the following —
  - (i) a person referred to in paragraph (a) or (aa);
  - (ii) a certificated practitioner;
  - (iii) the trustee of a trust referred to in paragraph (b);
- (d) the employer of the certificated practitioner.

*[Rule 103 inserted in Gazette 6 June 1980 p. 1665; amended in Gazette 12 June 1981 p. 2053; 12 December 1986 p. 4807; 2 March 1990 p. 1288; 30 June 2003 p. 2610.]*

**104. Restrictions on sharing costs**

- (1) A certificated practitioner shall not permit or suffer any sharing of costs pursuant to rule 103(a), (b) or (c) which shall result in more than one half of the net income derived in any financial year from the practice in which he is engaged (whether as a sole practitioner, partner or otherwise) being derived by any one or more persons other than a certificated practitioner or his executors or administrators.
- (2) In respect of any financial year, a certificated practitioner shall not share costs under rule 103(d) to an extent that exceeds the sum of —
  - (a) the practitioner's salary for that financial year;
  - (b) the direct costs incurred by the employer in connection with the employment of the practitioner in that financial year; and
  - (c) the reasonable expenses incurred by the employer in running the practitioner's office in that financial year.

*[Rule 104 inserted in Gazette 12 June 1981 p. 2054; amended in Gazette 2 March 1990 pp. 1288-9.]*

**105. Arrangement for sharing costs to be in writing**

An agreement or arrangement for the sharing of costs under this Part shall be in writing.

*[Rule 105 inserted in Gazette 6 June 1980 p. 1665.]*

**106. Costs not to be shared in certain matters**

A certificated practitioner shall not share costs so as to affect any one or more of the following matters —

- (a) the relationship between the practitioner and his client;  
or
- (b) the proper conduct of his profession by the certificated practitioner; or

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- (c) the proper discharge by the Board of its powers and functions,

and in any case where the Board is of the opinion that —

- (i) a practitioner is so sharing costs; or
- (ii) an agreement or arrangement made under this Part is affecting one or more of the above matters,

then the Board may direct the certificated practitioner to cease to share costs with any person who is not a certificated practitioner or the executor or administrator of a certificated practitioner and the practitioner shall forthwith give effect to that direction.

*[Rule 106 inserted in Gazette 6 June 1980 p. 1665.]*

**107. “Employer” includes a related corporation**

Where a certificated practitioner is employed by a corporation a reference in this Part to the employer of the practitioner includes a reference to a corporation that is a related body corporate within the meaning of the *Corporations Act 2001* of the Commonwealth.

*[Rule 107 inserted in Gazette 2 March 1990 p. 1289; amended in Gazette 18 September 2001 p. 5104.]*



## Schedule 1 — Forms

[Heading inserted in Gazette 22 January 1999 p. 219.]

### Form A

#### ARTICLES OF CLERKSHIP

**DEED** made on 200

#### PARTIES

**A.B.** of (“the Principal”); and  
**C.D.** of (“the Articled Clerk”)

In consideration of the mutual obligations entered into by the parties with each other under this Deed, the parties agree as follows:

1. **ENTRY INTO ARTICLES**

The Principal agrees to take the Articled Clerk as an articled clerk for the purposes of the Act and rules for the term of one year<sup>1</sup> from the date on which these Articles are registered by the Board under the rules, and the Articled Clerk agrees to serve the Principal as an articled clerk for that term in accordance with this Deed.

2. **ARTICLED CLERK’S OBLIGATIONS**

At all times during the term of these Articles, the Articled Clerk is to —

- (a) serve the Principal as an articled clerk, honestly, faithfully and diligently;
- (b) keep confidential all information the Articled Clerk may acquire about the Principal’s business and the affairs of the Principal’s clients or the clients of the firm of which the Principal is a partner;
- (c) be present at the Principal’s office premises during ordinary office hours or at other times when reasonably requested by the Principal;
- (d) attend all courses and take all examinations required by the Act or the rules; and
- (e) behave in a proper and orderly manner.

3. **PRINCIPAL’S OBLIGATIONS**

At all times during the term of these Articles, the Principal is to —

- (a) instruct the Articled Clerk, or ensure that the Articled Clerk is instructed by others, in the practice and profession of the law as conducted in Western Australia;

- (b) at the completion of the term of articles, use the Principal’s best endeavours to have the Articled Clerk admitted as a Practitioner (but at the Articled Clerk’s expense), if the Articled Clerk has —
  - (i) duly complied with the Articled Clerk’s obligations under this Deed;
  - (ii) attended the course and passed the examinations prescribed by the rules in relation to the Articled Clerk; and
  - (iii) otherwise complied with the requirements of the Act and rules for admission as a Practitioner;and
- (c) ensure that the Articled Clerk is given exposure to as many different areas of law practised by the Principal as is practicable.

**4. PRINCIPAL DIES OR CEASES TO PRACTISE**

If the Principal dies or ceases to practise as a Practitioner, the Articled Clerk is to arrange to assign these Articles to, or to commence new Articles with, another Practitioner so as to complete the required term of articles with that other Practitioner. The Principal’s obligations under this Deed cease when these Articles are assigned or new articles are entered into and the assignment or new articles are registered by the Board.

**5. INTERPRETATION**

5.1 In this Deed —

“**Act**” means the *Legal Practitioners Act 1893*;

“**Board**” means The Legal Practice Board constituted under the Act;

“**Practitioner**” means a practitioner of the Supreme Court of Western Australia;

“**rules**” means the *Legal Practice Board Rules 1949*.

5.2 A reference to the Act or rules includes a reference to the Act or rules as from time to time amended or replaced.

**Signed** by the parties as a deed.

Signed by AB .....

in the presence of:

Witness .....

Signed by CD .....

in the presence of:

Witness .....

\_\_\_\_\_

<sup>1</sup> Vary as necessary.

**Form B**  
**Legal Practitioners Act 1893**  
**APPLICATION TO THE LEGAL PRACTICE BOARD FOR**  
**APPROVAL TO THE REGISTRATION OF ARTICLES**  
**Rule 20(b)**

**APPLICANT:** .....  
of .....

I, the Applicant, apply for the Board's approval to the registration of articles of clerkship in accordance with the Act and rules and provide the following information:

1. I propose to serve my articles with .....
2. My date of birth is ..... and I attach a copy of my birth certificate.<sup>1</sup>
3. I attach a certificate of character signed by ..... and .....  
....., both practitioners.<sup>2</sup>
4. I hold a Bachelor of Laws degree from the University of Western Australia/ Murdoch University/a University recognised by the Board for this purpose<sup>3</sup>, and I attach a certificate from the University to that effect.<sup>4</sup>
5. I have not been convicted of any offence.<sup>5</sup>

OR

I have been convicted of an offence (or offences) and the details are:

.....  
.....

Dated ..... 200.....

Signed by .....

---

<sup>1</sup> Or if a certificate is not available, other satisfactory evidence.

<sup>2</sup> Or other evidence which can satisfy the Board that the applicant is of good fame and character.

<sup>3</sup> Delete the wording which is not relevant.

<sup>4</sup> In the case of an application for 5 year articles, substitute the following paragraph 4:

‘I hold the following degree or qualifications or have the following achievements for the purposes of rule 20(d)(ii): ...’

<sup>5</sup> Conviction of an offence does not include a spent conviction within the meaning of the *Spent Convictions Act 1988*.

**Form C**  
**Legal Practitioners Act 1893**  
**CERTIFICATE AS TO CHARACTER**  
**Rule 20(c)<sup>1</sup>**

**APPLICANT:** .....  
of .....  
I, .....  
of ..... practitioner under the Act,  
**CERTIFY** that I have made due inquiry and believe that the Applicant is of  
good character and a fit and proper person to be articulated under the Act and rules.  
Dated ..... 200.....  
Signed by .....

<sup>1</sup> This Form may be used, with necessary alterations, for the purposes of section 16(b) of the Act (managing clerks).

**Form D**  
***Legal Practitioners Act 1893***  
**APPLICATION TO THE LEGAL PRACTICE BOARD FOR**  
**APPROVAL TO THE REGISTRATION OF AN ASSIGNMENT OF**  
**ARTICLES**

**Rule 21**

**APPLICANT** .....  
of .....  
serving under articles with .....  
registered on ..... 200.....

I, the Applicant, apply for the Board's approval to the registration of the assignment of my articles with ....., for a term of ..... years and registered on ..... 200....., to ....., a practitioner practising in Western Australia.

The reason for the assignment is .....

Dated ..... 200 .....

Signed .....

I<sup>1</sup> ..... agree to this application being made and the assignment of the Applicant's articles to .....

Dated ..... 200 .....

Signed .....

I<sup>2</sup> ..... agree to accept the assignment of the Applicant's articles.

Dated ..... 200 .....

Signed .....

---

<sup>1</sup> Present principal.

<sup>2</sup> New principal.

**Form E**  
**ASSIGNMENT OF ARTICLES**

**DEED** made on 200

**PARTIES**

**A.B. of** (“the First Principal”);  
**C.D. of** (“the Second Principal”); and  
**E.F. of** (“the Articled Clerk”)

**RECITALS**

- A. By Articles of Clerkship dated 200 (the “**Articles**”), and registered with The Legal Practice Board (the “**Board**”) on 200 the Articled Clerk became articled to the First Principal for the term of year(s) from 200, in accordance with the terms of the Articles.
- B. It has been agreed between the parties that the Articles be assigned to the Second Principal, subject to any necessary approval of the Board.

**NOW** by this Deed, the parties agree and declare as follows:

1. **ASSIGNMENT**

As the Principal named in the Articles, and with the agreement of the Articled Clerk, as confirmed by the Articled Clerk’s signature of this Deed, the First Principal assigns to the Second Principal the obligations and benefit of the position of principal under the Articles, with effect from the date of this Deed.

2. **SECOND PRINCIPAL’S OBLIGATIONS**

The Second Principal agrees to perform the First Principal’s obligations to the Articled Clerk under the Articles for the remainder of the term of the Articles.

3. **ARTICLED CLERK’S OBLIGATIONS**

The Articled Clerk agrees to perform his or her obligations under the Articles in relation to and at the request of the Second Practitioner.

4. **RELEASE OF FIRST PRINCIPAL**

The First Principal’s obligations under the Articles cease on the date of this Deed.

**Signed** by the parties as a deed.

Signed by A.B. ....

in the presence of:

Witness .....

Signed by C.D. ....

in the presence of:

Witness .....

Signed by E.F. ....

in the presence of:

Witness .....



**Form F**

**Legal Practitioners Act 1893**

**APPLICATION TO THE LEGAL PRACTICE BOARD TO CANCEL  
ARTICLES AND FOR APPROVAL TO THE REGISTRATION OF NEW  
ARTICLES**

**Rule 22**

**APPLICANT** .....

of .....

serving under articles with .....

registered on .....

I apply to the Board:

1. to cancel my articles with .....  
because he/she has ceased to be entitled to have an articulated clerk by  
reason of .....<sup>1</sup>; and  
.....
2. to approve the registration of new articles with .....  
for the unexpired balance of the former articles.

Dated ..... 200 .....

Signed .....

I<sup>2</sup> ..... agree to this application being made and the  
cancellation of the Applicant's articles to me.

Dated ..... 200 .....

Signed .....

I<sup>3</sup> ..... agree to become the principal under the Applicant's  
new articles.

Dated ..... 200.....

Signed .....

<sup>1</sup> Or 'died on .....

<sup>2</sup> Present principal.

<sup>3</sup> New principal.



**Form H**

**Legal Practitioners Act 1893**

**APPLICATION TO THE LEGAL PRACTICE BOARD FOR  
APPROVAL AS A MANAGING CLERK**

**RULE 39(a)**

**APPLICANT** .....

of .....

I, .....

of .....

clerk to ..... Solicitors, of .....

..... apply for the Board's approval as Managing Clerk in accordance with the Act and rules and provide the following information:

1. I have been employed as a Law Clerk for a period of ..... years  
..... months of which period I have been employed as  
Managing Clerk for a period of .....
2. Details of the practitioners by whom I have been employed and the  
period of my employment with each of them and the nature of the duties  
carried out in the course of that employment are as follows:
  
3. My age is ..... and a copy of my birth certificate is attached.
4. I attach a certificate of character signed by .....  
and ....., both practitioners<sup>1</sup>.

Dated ..... 200 .....

Signed .....

<sup>1</sup> Or other evidence which can satisfy the Board that the applicant is of good fame and character.

**Form I**  
***Legal Practitioners Act 1893***  
**ADMISSION AFFIDAVIT**

(To be used by applicants for admission under section 15(2)(a))

**APPLICANT** .....

of .....

I,

of

make oath and say as follows:<sup>1</sup>

1. On ..... 200 , I was awarded the degree of Bachelor of Laws by ..... University.
2. I have been an Articled Clerk under Articles registered with the Board on ..... 200 .
3. I have not been convicted of any offence.<sup>2</sup>

OR

I have been convicted of an offence (or offences) and the details are:

.....  
.....

Sworn etc.

---

<sup>1</sup> Use those of the following paragraphs as are appropriate to the case.

<sup>2</sup> Conviction of an offence does not include a spent conviction within the meaning of the *Spent Convictions Act 1988*.

**Form J**  
**Legal Practitioners Act 1893**  
**ADMISSION AFFIDAVIT**

(to be used by applicants for admission under section 16)

**APPLICANT** .....

of .....

I,

of

make oath and say as follows:

1. I have been employed as a clerk by .....  
Legal Practitioners, of..... Western Australia  
since ..... 200 and since ..... 200 ,  
I have been so employed as managing clerk.
2. My application for approval by the Board was granted by the Board on  
..... 200 .
3. I have passed the Articles Training Program examinations [or the  
examinations prescribed by the rules] and attach a Certificate of that fact  
issued by the Board.

Sworn etc.

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*[Forms K, L, M and N deleted]*

**Form O**  
**Rule 51(i)**

In the matter of the *Legal Practitioners Act 1893*, and in the matter of (name and address of deponent).

I (name and address) of ..... but late of ..... make oath and say as follows: —

1. On the ..... day of ..... I became entitled to practise in the Supreme Court of (if the applicant has been admitted to practise in any other Court or Courts he should here set forth the date or dates of every such admission and the names of every Court to which he has been admitted).

1A. I have not applied for admission to practise in any Court or Courts other than is referred to in paragraph 1.

or

1A. I have applied for admission to practise in a Court or Courts other than is referred to in paragraph 1 and the particulars of such application(s) are —

(Full particulars to be stated)

(Delete whichever paragraph is inapplicable)

2. I have not done or committed any act or thing which would render my name liable to be struck off the rolls of the said Court (or any of them) or cause me to be suspended from practice.

3. My conduct has not at any time been the subject of a complaint by any person to any of the said Courts nor any Judge thereof or any committee or body having authority to deal with complaints against any person entitled to practise before the said Courts or any of them, save and except as follows (give particulars of all complaints, giving dates, nature of each complaint and how disposed of).

4. Certificate of my admission to the said Court is hereto annexed.

5. I ceased to practise (here set forth the dates when the applicant ceased to practise in any Court to which he has been admitted and the nature of his employment thereafter, the date and manner of his arrival in this State and how and where he has been employed since his arrival).

6. I am of the age of .....years, having been born at ..... (place and country of birth) on the ..... day of ..... 19 .....

I attach a certificate of my birth (or if certificate not available, other satisfactory evidence).

7. I have not been convicted of any offence contrary to law.

or

7. I have been convicted of an offence/offences contrary to law and the particulars are as follows:

(Insert particulars)

(Delete whichever paragraph is inapplicable.)

Sworn, etc.

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*[Forms P, Pa, Pb and Pc deleted]*

**Form Q**  
**Rule 53(c)**

In the matter of the *Legal Practitioners Act 1893*, and in the matter of (name and address of applicant).

NOTICE is hereby given that (name and address)\* intends to apply to the Full Court on (date) or so soon thereafter as counsel can be heard for admission as a practitioner of the Supreme Court of Western Australia.

Any person who desires to object to the admission of the applicant may do so himself or by counsel after lodging at the Supreme Court 7 days before the date appointed a written notice stating the grounds of such objection.

Dated this ..... day of ....., 200 .....

(Sgd.) .....  
Secretary of The Legal Practice Board.

\*If the application is under section 15(2)(c) or (2)(d) there should be interpolated the following: —

“a legal practitioner of (stating Court).”



**Form R**  
**Rules 54 and 57E**

In the matter of the *Legal Practitioners Act 1893*, and in the matter of (name and address of applicant).

THESE are to certify that (name and address) is in every respect a person of good fame and character and fit and proper to be admitted as a practitioner and has observed and complied with the provisions of the *Legal Practitioners Act 1893*, and of the Rules made thereunder.

Dated this ..... day of ....., 200 .....

(Sgd.) .....

Chairman of The Legal Practice Board.

**Form Ra**  
**Rule 54**

In the matter of the *Legal Practitioners Act 1893*, and in the matter of (name and address of applicant).

THESE are to certify that (name and address) is in every respect of good fame and character and fit and proper to be admitted as a practitioner. Also that he is possessed of the qualifications required by section 16(a), of the *Legal Practitioners Act 1893*, and has complied with all other provisions of the said Act and the rules thereunder.

Dated this ..... day of ....., 200 .....

(Sgd.) .....

Chairman of The Legal Practice Board.

**Form S**

**Rule 55**

In the Supreme Court of Western Australia

In the matter of the *Legal Practitioners Act 1893*, and in the matter of (name and address of applicant).

I (name and address) make oath and say as follows: —

1. That I am the person referred to in the annexed certificate of The Legal Practice Board (annexing Certificate R).
2. That I have advertised notice of my intention to apply for admission in the (naming papers) issues of those papers for (giving dates when advertisement appeared).

Sworn, etc.

**Form T**  
**Rule 56**

In the matter of the *Legal Practitioners Act 1893*, and in the matter of (name and address of applicant).

I (state name and address) being duly sworn make oath and say as follows: —

1. That I was admitted as a practitioner on the (date of admission).
  2. That I was struck off the Rolls of the Court on the (date of or dates) for (stating grounds).
  3. That since that date I have been employed (state fully nature and places of employment since struck off the names of employers).
  4. That I annex hereto certificates from each of the said employers and from other persons to whom I have been well-known since I was struck off the rolls.
  5. That since I was struck off the rolls I have never at any time been guilty of any illegal or unprofessional conduct which would have been a cause of complaint had my name remained on the Rolls of the Court.
  6. That I intend to apply to be re-admitted as a practitioner.
- Sworn, etc.

**Form U**  
**Rules of The Legal Practice Board Part VIII, Rule 61**  
**APPLICATION FOR A PRACTICE CERTIFICATE**

I, (Mr/Mrs/Miss/Ms/Dr)

of \_\_\_\_\_  
*(Place of residence-please (Suburb) (Postcode) (Home telephone)*  
*provide street address)*

hereby make application for a practice certificate for the twelve months commencing on the 1<sup>st</sup> of July in the year in which this application is made.

**SECTION A – PRACTICE DETAILS**

**1.(a)** I practise: — *(Please provide details which will be in effect on 1<sup>st</sup> July)*

- on my own behalf under the firm name of \_\_\_\_\_
- as an equity partner of the firm of \_\_\_\_\_
- as a salaried partner of the firm of \_\_\_\_\_
- as an employee of \_\_\_\_\_
- as a consultant with the firm of \_\_\_\_\_
- as a corporate solicitor with \_\_\_\_\_
- as a member of the Independent Bar \_\_\_\_\_
- \_\_\_\_\_

**OR**

- (b)**  I am not currently working as a legal practitioner but wish to apply for a practice certificate.
- 2.**  My place of business is:
- My employer's place of business is:

\_\_\_\_\_  
*(Street address) (Suburb) (Postcode)*

\_\_\_\_\_  
*(Telephone) (Fax) (Email)*

\_\_\_\_\_  
*(PO Box address)*

- *If you are associated with more than one place of practice please record details of the other firm(s)/employer(s) on a separate sheet and attach it to this application.*

**SECTION B – ADMISSION IN OTHER JURISDICTIONS**

3. I am also on the Roll of Practitioners for \_\_\_\_\_  
\_\_\_\_\_  
*(If you are a QC or SC in another jurisdiction, please provide details)*

**SECTION C – TRUST ACCOUNTS**

- 4.(a) I/my firm keep/s a Trust Account which is audited by \_\_\_\_\_  
*(Name of auditor)*  
of \_\_\_\_\_  
*(Firm)*

- (b) I/my firm maintain/s a Trust Bank Account at \_\_\_\_\_  
*(Bank) (Branch)*

- (c) I enclose the Accountant's Certificate pursuant to Division III of Part XI of the *Legal Practice Board Rules 1949*.

**OR**

- 5.(a) I do not keep and am not liable under the Act and Rules to keep a separate Trust Account being —  
 an employee of a firm  
 a Practitioner who does not hold or disburse money on behalf of some other person.
- (b) I will advise the Legal Practice Board if any obligation to keep a Trust Account arises during the year in respect of which this application is made.

**SECTION D – PROFESSIONAL INDEMNITY INSURANCE**

6. I have complied with Professional Indemnity Insurance Regulations, as required by Law Mutual.

**SECTION E – BANKRUPTCY**

- 7.(a) I am not bankrupt.

- (b) I have not applied to take benefit of a law for the relief of bankrupt or insolvent debtors (s. 16A(3)).

*If you are unable to confirm the above, please provide details in writing and attach to this application.*

**SECTION F – PAYMENT**

8. I wish to pay by —

- Cheque       Cash       Electronic Funds Transfer       Credit Card

- (a) the practice fee payable upon this application  
(b) my contribution to the Solicitor’s Guarantee Fund — Contribution No.

TOTAL \_\_\_\_\_

**SECTION G – CHANGE OF PARTICULARS**

9. I will comply with Rule 63 of the *Legal Practice Board Rules 1949* which states as follows:

“If any of the particulars furnished by a practitioner in an application for a practice certificate ceases to be true and accurate at any time before the practice certificate issued with respect to that application expires, the practitioner shall notify the Secretary immediately of the changed particulars and the Secretary shall amend the register kept under this Part accordingly.”

**SECTION H – CONFIRMATION**

10. I confirm that the contents of this application are true and correct.

Signature of applicant \_\_\_\_\_ Date \_\_\_\_\_

**APPLICATION MUST BE MADE BEFORE 30 JUNE.**

*[Form U inserted in Gazette 9 May 2003 p. 1621-3.]*

**Form V**  
**Rule 61**  
Western Australia  
**ANNUAL PRACTICE CERTIFICATE**

Certificate Number ..... Date of Expiry 30 June 20 .....

Roll Number .....

Pursuant and subject to the *Legal Practitioners Act 1893* The Legal Practice Board hereby certifies that:

.....  
is a Certificated Practitioner of the Supreme Court of Western Australia from the date hereof until 30 June 20 .....

Dated this ..... day of ..... 20 .....

Fee paid \$ .....

.....  
Secretary of The Legal Practice Board

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*[Forms W, X, Y and Z deleted]*



**Form AA**  
**Rules 100-102**

TO:

THE SECRETARY  
THE LEGAL PRACTICE BOARD  
5TH FLOOR, 533 HAY ST  
PERTH.

1. In compliance with the Provisions of Division III of Part XI of the Rules (Trust Account Rules) made under the Provisions of the *Legal Practitioners Act 1893*, as amended from time to time.

I .....  
of .....  
(address) (occupation)

being an approved Accountant within the meaning of the Rules have examined the accounting records and accounts of

.....  
(name of Practitioner)

or firm in respect of his Practice.

Delete as necessary

{

In partnership under the style of

or alone under the style of

for the accounting period beginning on the day of 20 and ending on 31 March 20 .

2. I certify that from my examination of the accounting records and accounts relating to the above practice produced to me and from the information and explanations given to me I am satisfied that the said Practitioner has complied with the provisions of the said Rules except so far as concerns:

Delete as necessary

- (a) certain trivial breaches of the Rules due to clerical errors or mistakes in bookkeeping all of which were rectified on discovery.
- (b) The matters set out hereunder.

3. I certify that the Practitioner has/has not deposited to the Credit of the Trust established under the provisions of the *Legal Contributions Trust Act 1967*, such moneys as are required to be deposited under that Act.

Dated the day of 20 .  
.....

SIGNATURE

*[Schedule 1 amended in Gazette 29 June 1962 p. 1669; 19 April 1967 pp. 985-6; 12 March 1971 p. 766; 10 November 1972 pp. 4336-7; 30 March 1973 p. 814; 14 January 1977 p. 64; 11 March 1983 pp. 824-5; 12 June 1987 p. 2320; 14 July 1989 pp. 2132-3; 18 March 1994 p. 1046; 24 November 1995 pp. 5399-407; 22 January 1999 p. 219; 2 June 2000 p. 2668; 1 September 2000 p. 5012; 9 May 2003 p. 1621-3.]*

*[Schedule 2 repealed in Gazette 19 May 2000 p. 2437.]*

**Notes**

<sup>1</sup> This is a compilation of the *Legal Practice Board Rules 1949* and includes the amendments made by the other written laws referred to in the following table.

The *Legal Practice Board Rules 1949* were made under the *Legal Practitioners Act 1893* and continued under the *Legal Practice Act 2003* (see *Acts Amendment and Repeal (Courts and Legal Practice) Act 2003* s. 5). They were repealed by r. 77 of the *Legal Practice Board Rules 2004* but under the *Acts Amendment and Repeal (Courts and Legal Practice) Act 2003* s. 8, continue to apply in respect of a person who was a managing clerk when that section came into operation.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Rules of the Barristers' Board</i>	5 Aug 1949 pp. 1876-85	5 Aug 1949
	30 Sep 1955 p. 2512	30 Sep 1955
	9 Feb 1959 p. 367-8	9 Feb 1959
	28 Apr 1959 p. 1139	28 Apr 1959
	1 Dec 1961 p. 3311	1 Dec 1961
	29 Jun 1962 p. 1669	29 Jun 1962
	<b>Reprinted in <i>Gazette</i> 21 January 1963 pp. 387-409</b>	
19 Apr 1967 p. 983-6.	19 Apr 1967	
21 May 1968 p. 1427	21 May 1968	
12 Mar 1971 p. 766	12 Mar 1971	
10 Nov 1972 p. 4333-7	10 Nov 1972	
30 Mar 1973 p. 814	30 Mar 1973	
7 Mar 1974 p. 740-1	7 Mar 1974	

## Legal Practice Board Rules 1949

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Citation	Gazettal	Commencement
	10 Jan 1975 p. 56	10 Jan 1975
	19 Sep 1975 pp.3598-9	19 Sep 1975
<b>Reprinted in <i>Gazette</i> 3 March 1976 pp. 593-623</b>		
	14 Jan 1977 p. 64	14 Jan 1977
	30 Sep 1977 p. 3530	30 Sep 1977
	3 Mar 1978 p. 635	3 Mar 1978
	9 May 1980 p. 1451	9 May 1980
	6 Jun 1980 p. 1665	6 Jun 1980
<i>Barristers' Board Amendment Rules 1981</i>	27 Feb 1981 p. 799-800	27 Feb 1981
<i>Barristers' Board Amendment Rules (No. 3) 1981</i>	12 Jun 1981 p. 2053	12 Jun 1981
<i>Barristers' Board Amendment Rules 1983</i>	11 Mar 1983 p. 823-5	11 Mar 1983
<i>Barristers' Board Amendment Rules 1984</i>	2 Mar 1984 p. 541	2 Mar 1984
<i>Barristers' Board Amendment Rules (No. 2) 1984</i>	4 May 1984 p. 1184	Rule 4 operative 4 Jul 1984; balance 4 May 1984 (see rule 2)
<i>Barristers' Board Amendment Rules 1986</i>	11 Jul 1986 p. 2337	11 Jul 1986
<i>Barristers' Board Amendment Rules (No. 2) 1986</i>	12 Dec 1986 p. 4807	12 Dec 1986
<b>Reprinted in <i>Gazette</i> 6 May 1987 pp. 2011-58</b>		
<i>Barristers' Board Amendment Rules 1987</i>	12 Jun 1987 p. 2320	1 Jul 1987
<i>Barristers' Board Amendment Rules (No. 2) 1987</i>	4 Sep 1987 pp. 3485-6	4 Sep 1987

Citation	Gazettal	Commencement
<i>Barristers' Board Amendment Rules 1988</i>	13 May 1988 p. 1585	13 May 1988
<i>Barristers' Board Amendment Rules (No. 2) 1988</i> <sup>3</sup>	2 Sep 1988 p. 3395	2 Sep 1988
<i>Barristers' Board Amendment Rules 1989</i>	3 Mar 1989 p. 667	3 Mar 1989
<i>Barristers' Board Amendment Rules (No. 2) 1989</i>	14 Jul 1989 pp. 2132-3	14 Jul 1989
<i>Barristers' Board Amendment Rules 1990</i>	2 Mar 1990 pp. 1288-9	2 Mar 1990
<i>Barristers' Board Amendment Rules 1991</i>	8 Mar 1991 pp. 1031-2	8 Mar 1991
<i>Barristers' Board Amendment Rules (No. 2) 1991</i>	5 Apr 1991 p. 1401	5 Apr 1991
<i>Barristers' Board Amendment Rules (No. 3) 1991</i>	12 Apr 1991 p. 1605	26 Apr 1991 (see rule 2 and <i>Gazette</i> 26 Apr 1991 p. 1843)
<i>Barristers' Board Amendment Rules (No. 4) 1991</i>	2 Aug 1991 pp. 3992-3 (corrigendum 9 Aug 1991 p. 4113)	2 Aug 1991
<i>Barristers' Board Amendment Rules 1992</i> <sup>2</sup>	1 May 1992 pp. 1796-7	1 May 1992
<i>Barristers' Board Amendment Rules 1994</i>	18 Mar 1994 pp. 1043-6	18 Mar 1994
<i>Legal Practice Board Amendment Rules 1995</i>	20 Jun 1995 p. 2402	20 Jun 1995
<i>Legal Practice Board Amendment Rules (No. 2) 1995</i>	24 Nov 1995 pp. 5394-407	24 Nov 1995
<i>Legal Practice Board Amendment Rules 1998</i>	22 Jan 1999 pp. 216-20	22 Jan 1999
<i>Legal Practice Board Amendment Rules (No. 2) 1998</i>	24 Nov 1998 p. 6317	1 Dec 1998 (see rule 2)
<i>Legal Practice Board Amendment Rules (No. 3) 1998</i>	22 Jan 1999 pp. 215-16	22 Jan 1999

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Legal Practice Board Amendment Rules 2000</i>	19 May 2000 p. 2437	19 May 2000
<i>Legal Practice Board Amendment Rules (No.2) 2000</i>	2 Jun 2000 pp. 2667-8	2 Jun 2000
<i>Legal Practice Board Amendment Rules 1999</i>	1 Sep 2000 p. 5012	1 Sep 2000
<i>Legal Practice Board Amendment Rules 2001</i>	18 Sep 2001 p. 5104	18 Sep 2001
<i>Legal Practice Board Amendment Rules 2002</i>	18 Jun 2002 p. 2866-7	1 Jul 2002 (see regulation 2)
<i>Legal Practice Board Amendment Rules (No. 2) 2002</i>	30 Aug 2002 p. 4458	30 Aug 2002
<i>Legal Practice Board Amendment Rules 2003</i>	9 May 2003 p. 1619-23	9 May 2003
<i>Equality of Status Subsidiary Legislation Amendment Regulations 2003 Pt. 20</i>	30 Jun 2003 p. 2581-638	1 Jul 2003 (see r. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Legal Practice Board Rules 2004</i> r. 80	14 May 2004 p. 1473-557	14 May 2004

**These rules were repealed by the *Legal Practice Board Rules 2004* r. 77 as at 14 May 2004 (see *Gazette* 14 May 2004 p. 1518)**

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<sup>2</sup> The *Barristers' Board Amendment Rules (No. 2) 1988* r. 5 reads as follows —  
“

**5. Saving**

Notwithstanding rule 4, rule 52 of the principal rules as in force immediately before the coming into operation of these rules shall continue to have effect in relation to an application for admission lodged with the secretary before the coming into operation of these rules.

”

<sup>3</sup> The *Barristers' Board Amendment Rules 1992* r. 4(2) reads as follows —  
“

- (2) Notwithstanding subrule (1), the fee of \$100 prescribed in rule 60 of the principal rules continues to apply in respect of any practice certificate issued after the commencement of these rules in respect of a period ending on 30 June 1992.

”

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
5 year articled clerk.....	18
approved accountant .....	99(3), 100
approved degree.....	18
articles.....	18
ATP.....	27
Board .....	Sch. 1
book .....	78
Certificate .....	100
Chairman.....	3
Employer.....	107
Librarian .....	78
Library .....	78
Library Committee.....	78
Practitioner's accounting records.....	100
principal .....	18
repealed rules .....	27
Secretary .....	3
the Articled Clerk.....	Sch. 1
the Principal .....	Sch. 1
these rules .....	90(1)