

JUSTICE**JM301****LEGAL PRACTITIONERS ACT 1893****LEGAL PRACTICE BOARD AMENDMENT RULES (No. 2) 1995**

Made by The Legal Practice Board under section 6.

Citation

1. These rules may be cited as the *Legal Practice Board Amendment Rules (No. 2) 1995*.

Principal rules

2. In these rules the *Legal Practice Board Rules 1949** are referred to as the principal rules.

[* Reprinted as at 6 May 1987.

For amendments to 26 October 1995 see 1994 Index to Legislation of Western Australia, Table 4, p. 159 and Gazette of 20 June 1995.]

Rule 3A inserted

3. After rule 3 of the principal rules the following rule is inserted —

“

Varying time periods

- 3A. The Board may shorten or extend any time period referred to in these rules.

”

Part IV repealed and a Part substituted

4. Part IV of the principal rules is repealed and the following Part is substituted —

“

PART IV - ARTICLED CLERKS***Division 1 - Articles*****Definitions**

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

Term of articles

19. For the purposes of section 15 (2) (a) of the Act, the prescribed term of articles is one year.

Application for approval to registration of articles

20. 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 the Schedule;
- (b) an application in Form B in the Schedule;
- (c) 2 certificates as to character in Form C in the Schedule 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 articulated 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 articulated clerks.

Assignment of articles

21. 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 the Schedule and the deed of assignment, substantially in the form of Form E in the Schedule, is to be attached to the application.

New articles where practitioner ceases to be entitled to have an articulated clerk

22. If a practitioner to whom an articulated clerk is articulated ceases, before the completion of those articles, to be entitled to have an articulated clerk, the clerk may apply in Form F in the Schedule 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.

Applications for the Board's approval

23. (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.

Registration of articles or assignments, and fee

24. (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.

Conduct of articulated clerks

25. (1) An articulated clerk is to —

- (a) comply with the proper standards of the legal profession as expected of articulated clerks;
- (b) attend all courses of study required by the Board or these rules to be attended by articulated clerks in general or the articulated clerk in particular; and
- (c) attend to the duties required of the articulated 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 articulated clerk is to lodge with the Board a certificate in Form G in the Schedule given by every practitioner with whom the articulated clerk has served articles, certifying as to the conduct of the articulated clerk during the relevant period of service, or such other evidence as the Board may require.

Supervision of articulated clerks

26. (1) The Board may supervise the conduct of articulated clerks during their articles in any manner it may decide, and may require the attendance of an articulated clerk or principal before the Board.

(2) If the Board is satisfied that the articulated 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.

Division 2 - Examinations**Definition**

27. 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.

ATP and transitional provisions

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

- (a) for an articulated 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 articulated clerk, the ATP examinations.

5 year articulated clerks' examinations

29. The following examinations are prescribed for 5 year articulated 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 articulated clerk whose term of articles is to be completed not later than 31 December 1996, at the option of the articulated 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 articulated clerk, the ATP examinations.

Credits

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

Courses conducted by the Board

31. (1) In relation to an examination conducted by the Board other than an ATP examination, but subject to subrule (3), if an articulated 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 articulated 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 articulated 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 articulated 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.

Division 3 - Miscellaneous

Records

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

”.

Rule 39 amended

5. Rule 39 of the principal rules is amended —

(a) in paragraph (a) by deleting “Form K” and substituting the following —

“ Form H ”; and

(b) in paragraph (d) by deleting “Form L” and substituting the following —

“ Form C ”.

Rule 43 amended

6. Rule 43 of the principal rules is amended by deleting paragraph (b) and substituting the following paragraph —

“ (b) the ATP examinations. ”.

Rule 46 repealed

7. Rule 46 of the principal rules is repealed.

Rule 51 amended

8. Rule 51 of the principal rules is amended —

- (a) by deleting “in Form I” and substituting the following —
“ issued by the Board ”; and
- (b) by deleting “Form H” and substituting the following —
“ Form G ”.

Rule 52 amended

9. Rule 52 of the principal rules is amended by deleting “Form P of the Schedule” and substituting the following —

“ Form I or Form J in the Schedule, as the circumstances require, ”.

Schedule amended

10. The Schedule to the principal rules is amended by deleting —

- (a) all the Forms before Form O; and
- (b) Form P, Form Pa, Form Pb, and Form Pc,

and inserting before Form O the following Forms —

“

FORM A**ARTICLES OF CLERKSHIP**

DEED made on

199

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 year¹ 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;

¹ Vary as necessary.

- (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; and
- (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.

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

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.¹
3. I attach a certificate of character signed by and both practitioners.²
4. I hold a Bachelor of Laws degree from the University of Western Australia/ Murdoch University/a University recognised by the Board for this purpose³, and I attach a certificate from the University to that effect.⁴
5. I have not been convicted of any offence.⁵

OR

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

.....
.....

Dated 199

Signed by

¹ Or if a certificate is not available, other satisfactory evidence.

² Or other evidence which can satisfy the board that the applicant is of good fame and character.

³ Delete the wording which is not relevant.

⁴ 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):'

⁵ Conviction of an offence does not include:

- * a conviction where the penalty imposed did not exceed \$1 000, unless a sentence of imprisonment was also imposed,;
- * a conviction which occurred more than 10 years before the date of the application.

FORM C
LEGAL PRACTITIONERS ACT 1893
CERTIFICATE AS TO CHARACTER
Rule 20 (c) ¹

APPLICANT:

of

I,

ofa 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.

Dated199

Signed by

¹ 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 on199

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 199, to, a practitioner practising in Western Australia.

The reason for the assignment is

Dated199

Signed

I ¹ agree to this application being made and the assignment of the Applicant's articles to

Dated199

Signed

I ² agree to accept the assignment of the Applicant's articles.

Dated199

Signed

¹ Present principal

² New principal.

FORM E

ASSIGNMENT OF ARTICLES

DEED made on 199

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 199 (the "Articles"), and registered with The Legal Practice Board (the "Board") on 199 the Articled Clerk became articled to the First Principal for the term of year(s) from 199, 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 on199

I apply to the Board:

1. to cancel my articles with
because he/she has ceased to be entitled to have an articled
clerk by reason of¹; and
2. to approve the registration of new articles with
for the unexpired balance of the former articles.

Dated199

Signed

¹ Or 'died on

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

Dated199

Signed

I ³ agree to become the principal
under the Applicant's new articles.

Dated199

Signed

² Present principal

³ New principal.

FORM G

LEGAL PRACTITIONERS ACT 1893

CERTIFICATE AS TO COMPLETION OF SERVICE UNDER ARTICLES

Rules 25 (2) & 51

ARTICLED CLERK.....

of

serving under articles with

registered on 199

I,

of, a practitioner under the Act,

CERTIFY that the Articled Clerk has —

- (a) served as my articled clerk between the dates
and (both inclusive); and
- (b) duly complied with his/her obligations under his/her
articles.

Dated199

Signed

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.¹

Dated199

Signed

¹ 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:¹

1. On199 , I was awarded the degree of Bachelor of Laws byUniversity.
2. I have been an Articled Clerk under Articles registered with the Board on199 .
3. I have not been convicted of any offence. ²

OR

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

.....
.....

Sworn etc.

¹ Use those of the following paragraphs as are appropriate to the case.

² Conviction of an offence does not include:

- * a conviction where the penalty imposed did not exceed \$1 000, unless a sentence of imprisonment was also imposed.;
- * a conviction which occurred more than 10 years before the date of the application.