



Western Australia

## **Legal Profession Rules 2009**

Compare between:

[13 Dec 2014, 00-e0-01] and [21 Feb 2015, 00-f0-03]



## Legal Profession Rules 2009

### Part 1 — Preliminary matters

#### 1. Citation

These rules are the *Legal Profession Rules 2009*.

#### 2. Commencement

These rules come into operation as follows —

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

#### 3A. Supervised legal practice

- (1) This rule applies for the purposes of the definition, in section 3 of the Act, of *supervised legal practice* paragraph (f).
- (2) Legal practice is approved if it is engaged in in a capacity approved under rule 19 for the purposes of the definition, in section 50 of the Act, of *restricted legal practice* paragraph (f).

*[Rule 3A inserted in Gazette 7 Apr 2009 p. 1135.]*

## **Part 2 — Australian legal practitioners**

### **Division 1 — Grant or renewal of local practising certificates**

#### **3. Application for grant or renewal of local practising certificate (s. 43(1))**

- (1) An application for the grant or renewal of a local practising certificate must be accompanied by any documents or other information required by the approved form.
- (2) If the approved form provides for any document or information relating to the application to be given to the Board after the application has been made, the applicant must give the document or information to the Board within the period specified in the form.

#### **4. Fee for application for grant of local practising certificate (s. 43(1)(b))**

- (1) The fee payable for an application for the grant or renewal of a local practising certificate is the relevant fee specified in Schedule 1.
- (2A) The fee payable for an application for the grant or renewal of a local practising certificate as specified in Schedule 1 applies to a local practising certificate that takes effect within the time period specified with that fee.
- (2) An applicant for the grant of a local practising certificate is entitled to a discounted fee if —
  - (a) the application is made on or after 1 January but before 30 June; and
  - (b) the applicant either —
    - (i) was not an Australian legal practitioner on the previous 30 June; or
    - (ii) was a local legal practitioner on the previous 30 June but was not required by section 42(6) of

the Act to renew his or her local practising certificate.

*[Rule 4 amended in Gazette 12 Dec 2014 p. 4718-19.]*

**5. Timing of application for renewal of local practising certificate (s. 44)**

- (1) In this rule —  
*expiry day*, in relation to a local practising certificate, means the day on which the certificate is due to expire.
- (2) For section 44(1)(a) of the Act the standard renewal period is the period beginning on the 1 May before the expiry day and ending on the 31 May before the expiry day.
- (3) For section 44(1)(b) of the Act the late fee period is the period beginning on the 1 June before the expiry day and ending on the expiry day.

**6. Notification of change of details**

- (1) A local legal practitioner must notify the Board immediately of any change in any of the information given in or with the practitioner's most recent application for a local practising certificate.
- (2) A person who is taken to be a local legal practitioner under section 36 of the Act must notify the Board immediately of any change in the person's name, address, telephone or fax number, email address or employer.

**7A. Contributions to Guarantee Fund (s. 337)**

For the purposes of section 337 of the Act the prescribed amount is \$20.

*[Rule 3A inserted in Gazette 7 Apr 2009 p. 1136.]*

**Division 2 — Condition on local practising certificates:  
continuing professional development**

**Subdivision 1 — Preliminary**

*[Heading inserted in Gazette 20 Feb 2015 p. 681.]*

**7. Terms used**

In this Division —

***approved CPD activity*** means —

- (a) a professional development activity provided by a QA provider; or
- (b) a professional development activity approved under rule 15;

~~***certificate year*** means the period during which a local practising certificate is in force;~~

***chair***, in relation to an interactive activity, means a person who chairs the activity but who is not a commentator;

***commentator***, in relation to an interactive activity, means a person making substantive comments or leading discussion as convenor, group leader or in a similar role;

~~***CPD condition*** means the condition imposed on a local practising certificate by rule 8;~~

~~***CPD point*** means a point earned in accordance with rule 9;~~

~~***individual activity*** means an approved CPD activity that is not an interactive activity;~~

***interactive activity*** means an approved CPD activity that is part of a structured learning programme and either —

- (a) involves interaction between 2 or more persons whether in person or by remote communication; or
- (b) is an interactive electronic activity;

***presenter***, in relation to an interactive activity, means a person presenting the activity as a lecturer, tutor, presenter of a substantive paper or in a similar role;

**professional development activity** includes —

- (a) an educational or training activity; and
- (b) the writing of a book, article, commentary or other similar work; and
- (c) the preparation of material to be used by participants in an educational or training activity, whether or not the material is to be presented by the person who prepared the material; and
- (d) the editing, publishing or refereeing of a journal, or article in a journal, or similar publication (whether in print or an electronic format); ~~and whether in a publication primarily intended for the legal profession or otherwise~~);

**publication activity** means a professional development activity of a kind described in paragraphs (b), (c) and (d) of that term;

**QA provider** means —

- (a) a body that is a QA provider under rule 14(1); or
- (b) a person, body or group of persons approved as a QA provider under rule 14(2);

**remote communication** means any way of communicating at a distance including any sort of electronic, audio or audiovisual communication.

[Rule 7 amended in Gazette 20 Feb 2015 p. 681.]

### Subdivision 2 — Local practising certificates in force before 1 July 2015

[Heading inserted in Gazette 20 Feb 2015 p. 681.]

#### 8A. Terms used

In this Subdivision —

**certificate year** means the period during which a local practising certificate is in force;

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*CPD condition* means the condition imposed on a local practising certificate by rule 8(1);

*CPD point* means a point earned in accordance with rule 9;

*individual activity* means an approved CPD activity that is not an interactive activity.

*[Rule 8A inserted in Gazette 20 Feb 2015 p. 681.]*

**8. Condition on practising certificates before 1 July 2015: practitioner must complete professional development**

- (1) A local practising certificate that takes effect on or after 1 July 2009, but before 1 July 2015, is subject to the condition that the local legal practitioner must earn 10 CPD points during the certificate year.
- (2) If requested by the Board to do so a local legal practitioner, or a person who was a local legal practitioner, must provide to the Board any document or information in relation to the person's compliance with a condition imposed under subrule (1).

*[Rule 8 amended in Gazette 20 Feb 2015 p. 682.]*

**9. Earning CPD points**

- (1) A local legal practitioner earns CPD points by completing approved CPD activities.
- (2) The number of CPD points earned by completing a particular approved CPD activity is to be determined under rule 12.
- (3) Subject to ~~subrule~~subrules (4) and (5A), a CPD point is earned in the certificate year during which the approved CPD activity is completed.
- (4) A CPD point earned by the completion of an approved CPD activity on or after 1 April but before 30 June in a year is to be taken to have been earned on 1 July of that year.

(5A) Subrules (3) and (4) do not apply to points earned after 31 March 2015 and before 1 July 2015.



- (5) A practitioner may complete an interactive activity —
- (a) as a participant by attending in person or by remote communication; or
  - (b) as a presenter, commentator or chair of the activity.

Note:

Subdivision 3 deals with earning CPD points after 31 March 2015.

[Rule 9 amended in Gazette 20 Feb 2015 p. 682.]

## **10. Competency area requirements**

- (1) In this rule a local legal practitioner is an *experienced practitioner* for a certificate year if, at the beginning of that year, the practitioner had been engaged in legal practice for at least 5 years.
- (2) An approved CPD activity is within *competency area 1* if it involves professional development in the areas of legal skills or practice.
- (3) An approved CPD activity is within *competency area 2* if it involves professional development in the areas of ethics or professional responsibility.
- (4) An approved CPD activity is within *competency area 3* if it involves professional development in an area of substantive law.
- (5) An approved CPD activity is to be taken to be in the competency area determined —
  - (a) if the activity is provided by a QA provider — by the provider; or
  - (b) otherwise — by the Board at the time it approves the activity under rule 15(3).
- (6) If a local legal practitioner is not an experienced practitioner for a certificate year the CPD points earned to satisfy the CPD condition for that certificate year must include —

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- (a) at least 4 CPD points earned by completing approved CPD activities that are within competency area 1; and
  - (b) at least 4 CPD points earned by completing approved CPD activities that are within competency area 2.
- (7) If a local legal practitioner is an experienced practitioner for a certificate year the CPD points earned to satisfy the CPD condition for that certificate year must include —
- (a) at least 2 CPD points earned by completing approved CPD activities that are within competency area 1; and
  - (b) at least 2 CPD points earned by completing approved CPD activities that are within competency area 2.

**11. Interactive and publishing point requirements**

- (1) The CPD points earned to satisfy the CPD condition for a certificate year must include at least 8 CPD points earned —
- (a) by completing interactive activities; or
  - (b) by completing a combination of interactive activities and publishing activities.
- (2) The CPD points earned to satisfy the CPD condition for a certificate year cannot include more than 5 CPD points earned by completing publishing activities.

**12. CPD points for an activity**

- (1) Subject to subrules (2) and (3) the points earned by completing an approved CPD activity are as set out in the Table.

**Table**

<b>1. Interactive activity</b>	
Participant	0.5 points for each complete 30 minutes
Presenter	1.5 points for each complete 30 minutes
Commentator	1 point for each complete 30 minutes

Chair	0.5 points for each complete 30 minutes
<b>2. Individual CPD activity other than publication activity</b>	
As participant	0.5 points for each complete 60 minutes
<b>3. Publication activity</b>	
As writer	0.5 points for each complete 500 words
As editor	1 point per edition

~~(2) When approving an activity under rule 15 the Board may allocate to it a number of CPD points different from that set out in the Table, in which case a person completing the activity earns the number of points allocated by the Board.~~

~~[(2) deleted]~~

- (3) The maximum number of CPD points that can be earned from completing a single approved CPD activity is 7.

*[Rule 12 amended in Gazette 20 Feb 2015 p. 682.]*

**Subdivision 3 — Local practising certificates in force on or after 1 July 2015**

*[Heading inserted in Gazette 20 Feb 2015 p. 682.]*

**13A. Terms used**

In this Subdivision —

**CPD condition** means the condition imposed on a local practising certificate by rule 13B(1) or (2);

**CPD period** means the period from 1 April to 31 March;

**CPD point** means a point earned in accordance with rule 13C;

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*electronic activity* means an approved CPD activity provided by way of the electronic communication of information in the form of data, text, sound or images, or a combination of those things.

[Rule 13A inserted in Gazette 20 Feb 2015 p. 682.]

**13B. Condition on practising certificates on and after 1 July 2015: practitioner must complete professional development**

- (1) A local practising certificate that is granted on or after 1 July 2015 is subject to the condition that the local legal practitioner must, during the CPD period that ends in the same financial year during which the certificate is in force, earn the number of CPD points set out in the Table corresponding to the month in which the certificate is granted.

**Table**

<u>Month in which local practising certificate granted</u>	<u>Number of CPD points to be earned in the CPD period</u>
<u>July</u>	<u>9</u>
<u>August</u>	<u>8</u>
<u>September</u>	<u>7</u>
<u>October</u>	<u>6</u>
<u>November</u>	<u>5</u>
<u>December</u>	<u>4</u>
<u>January</u>	<u>3</u>
<u>February</u>	<u>2</u>
<u>March</u>	<u>1</u>

(2) A local practising certificate that is renewed on or after 1 July 2015 is subject to the condition that the local legal practitioner must earn 10 CPD points during the CPD period that ends in the same financial year during which the certificate is in force.

(3) If requested by the Board to do so a local legal practitioner, or a person who was a local legal practitioner, must provide to the Board any document or information in relation to the person's compliance with a condition imposed under subrule (1) or (2).

*[Rule 13B inserted in Gazette 20 Feb 2015 p. 683.]*

### **13C. Earning CPD points**

(1) A local legal practitioner earns CPD points by completing approved CPD activities.

(2) The number of CPD points earned by completing a particular approved CPD activity is to be determined under rule 13F(1), subject to rule 13F(2) and (3).

(3) A practitioner may complete an interactive activity —

(a) as a participant by attending in person or by remote communication; or

(b) as a participant in an interactive electronic activity; or

(c) as a presenter, commentator or chair of the activity.

*[Rule 13C inserted in Gazette 20 Feb 2015 p. 683-4.]*

### **13D. Competency area requirements**

(1) The CPD points earned to satisfy the CPD condition for a CPD period must include —

(a) at least one CPD point earned by completing approved CPD activities that are within competency area 1; and

(b) at least one CPD point earned by completing approved CPD activities that are within competency area 2; and

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- (c) at least one CPD point earned by completing approved CPD activities that are within competency area 3; and
- (d) at least one CPD point earned by completing approved CPD activities that are within competency area 4.
- (2) An approved CPD activity is within **competency area 1** if it involves professional development in an area of practice management.
- (3) An approved CPD activity is within **competency area 2** if it involves professional development in an area of professional skills.
- (4) An approved CPD activity is within **competency area 3** if it involves professional development in an area of ethics or an area of professional responsibility.
- (5) An approved CPD activity is within **competency area 4** if it involves professional development in an area of substantive law.
- (6) An approved CPD activity is to be taken to be in the competency area determined —
  - (a) if the activity is provided by a QA provider — by the provider; or
  - (b) otherwise — by the Board at the time it approves the activity under rule 15.

[Rule 13D inserted in Gazette 20 Feb 2015 p. 684.]

**13E. Requirements for interactive and publication CPD points**

- (1) The CPD points earned to satisfy the CPD condition for a CPD period must include at least 6 CPD points earned —
  - (a) by completing interactive activities; or
  - (b) by completing a combination of interactive activities and publication activities.

(2) The CPD points earned to satisfy the CPD condition for a CPD period cannot include more than 5 CPD points earned by completing publication activities.

[Rule 13E inserted in Gazette 20 Feb 2015 p. 685.]

**13F. CPD points for particular approved CPD activities**

(1) The CPD points earned by completing an approved CPD activity are as set out in the Table.

**Table**

<b><u>1. Interactive activity</u></b>	
<u>Participant</u>	<u>0.5 points for each complete 30 minutes</u>
<u>Presenter who prepared the material used in the activity</u>	<u>1.5 points for each complete 30 minutes</u>
<u>Presenter who presents material prepared by someone else</u>	<u>1 point for each complete 30 minutes</u>
<u>Commentator</u>	<u>1 point for each complete 30 minutes</u>
<u>Chair</u>	<u>0.5 points for each complete 30 minutes</u>
<b><u>2. Publication activity</u></b>	
<u>All publication activities</u>	<u>0.5 points for each set of 500 words to a maximum of 5 points for a single article</u>
<u>As editor, as an alternative to the previous item</u>	<u>1 point for each edition to a maximum of 5 editions</u>
<b><u>3. Electronic activity that is not an interactive activity or a publication activity</u></b>	
<u>As participant</u>	<u>1 point for each complete 60 minutes to a</u>

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	<u>maximum of 4 points for a conference, course or other event comprising one or more approved CPD activities</u>
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(2) The maximum number of CPD points that can be earned from attending a conference, course or other event comprising one or more interactive activities is 6.

(3) CPD points cannot be earned by completing an electronic activity, whether interactive or not, unless the material for the activity —

(a) was prepared in the period of 12 months before completion of the electronic activity; or

(b) has been reviewed and, if necessary, updated in that period.

[Rule 13F inserted in Gazette 20 Feb 2015 p. 685-6.]

**Subdivision 4 — Other matters about continuing professional development**

[Heading inserted in Gazette 20 Feb 2015 p. 686.]

**13. Points for repeated activities**

(1A) In this rule —

**CPD points** means points earned in accordance with rule 9 or 13C, as is relevant to the case.

(1) If a local legal practitioner repeats an approved CPD activity the practitioner earns the CPD points for completing the activity only once, but the practitioner may choose from which repetition of the activity he or she earns the points.

(2) If a local legal practitioner —

(a) completes a publication activity of a kind described in paragraph (b) or (c) of the definition of **professional development activity**; and



- (b) presents substantially the same material as a presenter or commentator of an interactive activity,

the practitioner earns the CPD points for the publication activity or the interactive activity but not both, but the practitioner may choose from which activity he or she earns the points.

[\[Rule 13 amended in Gazette 20 Feb 2015 p. 686.\]](#)

**14. ~~Approval of QA providers~~**

- (1) The following are QA providers —
- (a) the Board;
  - (b) all courts and tribunals created by a written law of this State, the Commonwealth, any other State or a territory;
  - (c) The Western Australian Industrial Relations Commission and the Australian Industrial Relations Commission.

*[(d) deleted]*

- (2) The Board may approve any other person, body or group of persons as a QA provider.

- [\(3\) The Board may audit, or cause to be audited, a person, body or group of persons approved as a QA provider under subrule \(2\) in relation to the provision by the QA provider of professional development activities.](#)

[\[Rule 14 amended in Gazette 26 Oct 2010 p. 5290; 20 Feb 2015 p. 686.\]](#)

**15. Approval of professional development activities**

- (1) The Board may, on the application of a person who is not, or a body or group of persons that is not, a QA provider, approve a professional development activity provided, or to be provided, by the applicant as an approved CPD activity.
- (2) The Board may, on the application of a local legal practitioner, approve a professional development activity undertaken, or to

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be undertaken, by that practitioner as an approved CPD activity for that practitioner.

- (3) When approving an activity under this rule the Board is to determine which competency area the activity is in for the purposes of rule 10 or 13D.

- (4) When approving an activity under this rule the Board may allocate to it a number of CPD points different from that set out in the Table to rule 12(1) or the Table to rule 13F(1), as is relevant to the case, in which case a person completing the activity earns the number of points allocated by the Board.

[Rule 15 amended in Gazette 20 Feb 2015 p. 686-7.]

**16. Approvals generally**

An approval under rule 14(2) or 15 —

- (a) may be granted subject to any conditions the Board thinks fit; and
- (b) takes effect from the day specified in it, which may be before the day on which it is granted; and
- (c) may be revoked by the Board at any time.

[Rule 16 amended in Gazette 20 Feb 2015 p. 687.]

**17. Variations**

- (1) In this rule —

*reduce* includes reduce to zero.

- (2) The Board may vary the ~~CPD~~-condition imposed on a practising certificate by rule 8(1) or 13B(1) or (2) by doing either or both of the following —

- (a) reducing the number of CPD points the local legal practitioner is required to earn;
- (b) reducing the minimum points requirements imposed by rules 10 and 11 or 13D and 13E, as is relevant to the case.

- (3) Without limiting the matters to which the Board may have regard in deciding whether to exercise a power under subrule (2), the Board may have regard to any or all of the following —
- (a) the time when, or length of the period during which, the certificate ~~year; is in force;~~
  - (b) any disability, injury or illness suffered by the practitioner;
  - (c) any restrictions on the practitioner's right to practice;
  - (d) any period of absence from legal practice (whether on leave or otherwise) by the practitioner during the period during which the certificate ~~year; is in force;~~
  - (e) the location of the practitioner's principal place of practice;
  - (f) the length of time for which the practitioner has been engaged in legal practice;
  - (g) any other professional development or educational activities undertaken by the practitioner;
  - (h) whether compliance with the CPD condition would otherwise cause unreasonable hardship.

**~~18. Transitional arrangements~~**

~~*[Rule 17 amended in Gazette 20 Feb 2015 p. 687.]*~~

**18. Electronic activities to be reviewed yearly**

- (1) In this rule —

~~*applicable CPD points*, in relation to an activity, means the CPD points that a practitioner would have earned by completing the activity had this Division been in force on the completion day;~~

~~*commencement day* means the day on which this rule comes into operation;~~

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~~\_\_\_\_\_ **completion day**, in relation to an activity, means the day on which the practitioner completed the activity;~~

~~\_\_\_\_\_ **existing certificate** means a certificate to which section 606 of the Act applies.~~

~~\_\_\_\_\_ (2) On the commencement day an existing certificate becomes subject to the condition that the local legal practitioner must earn 10 CPD points during the certificate year.~~

~~\_\_\_\_\_ (3) If \_\_\_\_\_~~

~~\_\_\_\_\_ (a) \_\_\_\_\_ a local legal practitioner who holds an existing certificate completed \_\_\_\_\_ **provider** means \_\_\_\_\_~~

~~\_\_\_\_\_ (a) a QA provider; or~~

~~\_\_\_\_\_ (b) a person, body or group of persons providing a professional development activity \_\_\_\_\_~~

~~\_\_\_\_\_ (i) on or after 1 April 2007; but~~

~~\_\_\_\_\_ (ii) before the commencement day;~~

~~\_\_\_\_\_ and~~

~~\_\_\_\_\_ (b) before 1 June 2009 either \_\_\_\_\_~~

~~\_\_\_\_\_ (i) the provider of the activity becomes a QA provider; or~~

~~\_\_\_\_\_ (ii) the activity is approved under rule 15; \_\_\_\_\_~~

~~\_\_\_\_\_ the practitioner is to be taken to have earned any applicable CPD points on the commencement day.~~

~~\_\_\_\_\_ (4) If a local legal practitioner who holds an existing certificate earns a CPD point by the completion(2) \_\_\_\_\_ The provider of an approved CPDelectronic activity on, whether interactive or after 1 April 2009 but before 1 June 2009, the practitioner may choose not, must review and, if necessary, update the material for the point to be taken to have been earned in the certificate year for that certificate, in which case rule 9(4) does not apply in relation to that point. \_\_\_\_\_ activity at least every 12 months.~~

~~\_\_\_\_\_ [Rule 18 inserted in Gazette 20 Feb 2015 p. 687-8.]~~

### **Division 3 — Other conditions on local practising certificates**

#### **19. Restricted legal practice (s. 50)**

- (1) This rule applies for the purposes of the definition, in section 50 of the Act, of *restricted legal practice* paragraph (f).
- (2) Legal practice is approved if it is engaged in —
  - (a) as an employee or other member of the staff of —
    - (i) the Legal Aid Commission of Western Australia established by the *Legal Aid Commission Act 1976*; or
    - (ii) the Aboriginal Legal Service of Western Australia (Inc.); or
    - (iii) a community legal centre within the meaning given in section 388(1) of the Act;
  - and
  - (b) under the supervision of an Australian legal practitioner who holds an unrestricted practising certificate.

### **Division 4 — Local legal practitioner with articulated clerk**

#### **20. Terms used**

A term has the same meaning in this Division as it has in the *Legal Profession (Admission) Rules 2009* Part 3.

#### **21. Supervision of articulated clerks**

For the purposes of the *Legal Profession (Admission) Rules 2009* rule 19(1) the Board may require an articulated clerk or principal to do either or both of the following —

- (a) make available to the Board any document or other information in his or her possession or control;

- (b) appear before the Board and answer questions put to the person.

**22. Conduct of principal for articulated clerk**

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

**Division 5 — Interstate legal practitioners**

**23. Notification requirements for interstate legal practitioners (s. 71)**

An interstate legal practitioner who has given a notice under section 71 of the Act must give written notice to the Board of any change in the particulars or circumstances described in section 71(2)(a) to (e) or (g) or (h) within 28 days of the change occurring.

**24. Restricted legal practice by interstate legal practitioner (s. 72)**

- (1) This rule applies for the purposes of the definition, in section 72 of the Act, of *restricted legal practice* paragraph (f).
- (2) Legal practice is approved if it is engaged in —
  - (a) as an employee or other member of the staff of —
    - (i) the Legal Aid Commission of Western Australia established by the *Legal Aid Commission Act 1976*; or
    - (ii) the Aboriginal Legal Service of Western Australia (Inc.); or
    - (iii) a community legal centre within the meaning given in section 388(1) of the Act;
  - and
  - (b) under the supervision of an Australian legal practitioner who holds an unrestricted practising certificate.

### **Part 3 — Foreign lawyers**

**25. Fee for application for grant or renewal of registration (s. 168)**

The fee payable for an application for the grant or renewal of registration as a foreign lawyer is the relevant fee specified in Schedule 1.

**26. Conditions regarding notification of offence (s. 191)**

A notice under section 191 of the Act must be in an approved form.

**27. Notification requirements for interstate-registered foreign lawyers (s. 196)**

An interstate-registered foreign lawyer who has given a notice under section 196 of the Act must give written notice to the Board of any change in the particulars or circumstances described in section 196(2)(a) to (e) or (g) or (h) within 28 days of the change occurring.

## **Part 4 — Legal Practice Board**

### **Division 1 — Preliminary matters**

**28. Term used: secretary**

In this Part —

*secretary* means the secretary of the Board engaged or employed under section 553 of the Act.

### **Division 2 — Election of members of the Board**

**29. Annual election date**

- (1) Elections to elect members of the Board for the purposes of section 536(1)(d) are to be held on the first Tuesday in April each year.
- (2) If the first Tuesday in April is a day when the offices of the Supreme Court are closed, the election is to be held on the second Tuesday in April.

**30. Returning officers**

- (1) The Board is to appoint a returning officer and an assistant returning officer for each election.
- (2) The secretary cannot be appointed under subrule (1).

**31. Nomination of candidates**

- (1) A local legal practitioner may nominate as a candidate in an election by giving a notice of intention to stand to the Board at least 28 days before the election date.
- (2) A notice of intention to stand is to be signed by the nominee and countersigned by another local legal practitioner.



**32. Candidates elected when nominations equal vacancies**

If the number of candidates in an election is less than or equal to the number of vacancies, the candidates are all elected and the election need not be held.

**33. Ballot papers**

- (1) If the number of candidates in an election exceeds the number of vacancies, the secretary is to give a ballot paper to each local legal practitioner.
- (2) On the ballot paper —
  - (a) the candidates are to be listed in the order determined by lot by the secretary; and
  - (b) a candidate who is a member of the Board standing for re-election is to be identified as such.
- (3) The ballot paper is to be given to a local legal practitioner —
  - (a) with a ballot paper envelope for the purposes of rule 34(1)(b); and
  - (b) in an envelope marked “Confidential” and initialled by the secretary; and
  - (c) at least 10 days before the election date.

**34. Voting**

- (1) A local legal practitioner may cast his or her vote by —
  - (a) indicating on the ballot paper, by clearly scoring through them, the names of the candidates for whom the practitioner does not wish to vote; and
  - (b) sealing the ballot paper in an envelope marked “Ballot Paper” and signing the envelope; and
  - (c) returning the ballot paper to the secretary.
- (2) A vote is not valid unless it is received by the secretary before 12 noon on the election date.

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**Division 2** Election of members of the Board

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- (3) A local legal practitioner must not cast more than one vote in an election.
- (4) As soon as practicable after 12 noon on the election date —
- (a) the secretary is to give to the returning officer, unopened, all the ballot paper envelopes returned under subrule (1)(c); and
  - (b) the returning officer, assisted by the assistant returning officer, is to —
    - (i) open the ballot paper envelopes; and
    - (ii) decide on the validity of each ballot paper; and
    - (iii) record the number of votes cast for each candidate.
- (5) When all the votes have been counted the returning officer is to give to the Board —
- (a) the record of votes signed by the returning officer and the assistant returning officer; and
  - (b) the valid and invalid ballot papers (in 2 separate, clearly marked bundles).
- (6) The candidates, equal in number to the number of vacancies, who receive the most votes are elected.
- (7) If —
- (a) 2 or more candidates receive the same number of votes; and
  - (b) after candidates who received more votes are elected, the number of vacancies left is less than the number of candidates referred to in paragraph (a),

the chairperson has a casting vote to decide which of the candidates referred to in paragraph (a) is elected.

**35. Commencement of term of office**

A person elected under rule 32 or 34 takes office on the Thursday after the election date.

**36. Results to be published in *Gazette***

The secretary is to cause a notice setting out the names of the successful candidates, and of all other members of the Board, to be published in the *Gazette*.

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

A failure by the secretary to give a ballot paper to a local legal practitioner in accordance with rule 33, or the non-receipt of a ballot paper by a local legal practitioner, does not affect the validity of an election.

**Division 3 — Board meetings**

**38. Board meetings**

- (1) Board meetings are to be held —
  - (a) at the times and places determined by the Board; and
  - (b) at other times at the request of the chairperson or 2 members of the Board.
- (2) A request for a Board meeting is to be in writing, signed by the chairperson or members of the Board and given to the secretary at least 48 hours before the time requested for the meeting.

**39. Holding meetings remotely**

The presence of a person at a meeting of the Board need not be by attendance in person but may be by that person and each other person at the meeting being simultaneously in contact by telephone, or other means of instantaneous communication.

**40. Urgent meetings**

- (1) If a committee decides that the urgency of a matter being considered at a committee meeting requires immediate consideration by the Board, the members of the committee present at the meeting may immediately sit as the Board for the purpose of considering, and making a decision on, that matter.
- (2) Rule 38 does not apply to a meeting held under subrule (1).

**41. Resolution without meeting**

- (1) A resolution in writing signed, or otherwise assented to, by at least 4 members of the Board has the same effect as if it had been passed at a meeting of the Board.
- (2) Subrule (1) does not apply unless —
  - (a) each member of the Board has been given a notice —
    - (i) setting out the proposed resolution; and
    - (ii) requesting the member to respond in writing to the secretary indicating whether the member supports or opposes the resolution not later than the time specified in the notice (the *response time*);and
  - (b) the majority of members whose responses are received by the secretary at or before the response time support the resolution.
- (3) A resolution made under subrule (1) is taken to have been passed at the later of —
  - (a) the response time; or
  - (b) the time when the fourth member signed or otherwise assented to the resolution.
- (4) The non-receipt by a member of the Board of notice of the resolution does not affect the validity of the resolution.

**42. Rescission or amendment**

The Board cannot rescind or amend a resolution passed at a previous Board meeting unless notice of the proposed rescission or amendment is given in the notice convening the meeting.

**43. Minutes**

- (1) The secretary is to keep minutes of every Board meeting.
- (2) The minutes, when signed by the chairperson of that or a subsequent meeting, are prima facie evidence of the matters contained in the minutes.

**Division 4 — Committees**

**44. Convenor and deputy convenor**

- (1) The Board is to appoint a convenor and deputy convenor for each committee.
- (2) Section 541(2) to (6) of the Act apply to a convenor and deputy convenor of a committee.

**45. Committee meetings**

- (1) Section 543, 544 and 545 of the Act and rules 38, 39, 41, 42 and 43(1) apply to committee meetings.
- (2) The minutes of a committee meeting, when signed by the convenor of that meeting or by the chairperson, are prima facie evidence of the matters contained in the minutes.

**46. Application of applied provisions**

For the purpose of applying the provisions referred to in rules 44(2) and 45(1) —

- (a) a reference in those provisions to the Board, is to be read as a reference to the committee; and
- (b) a reference in those provisions to the chairperson, is to be read as a reference to the convenor; and

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- (c) a reference in those provisions to the deputy chairperson, is to be read as a reference to the deputy convenor; and
- (d) a reference in those provisions to a member of the Board, is to be read as a reference to a member of the committee.

## Part 5 — Law Library at Supreme Court

### 47. Terms used

In this Part —

**book** includes a document, film, tape, recording, disc or other thing forming part of the contents of the library;

**committee** means the committee of the Board to which the Board has delegated authority to oversee the management of the library;

**librarian** means the person employed or appointed to manage the library, or anyone acting in that position, and in rules 51 and 52 includes any staff under the librarian's supervision;

**library** means the Law Library at the Supreme Court and the branch of that library at the Central Law Courts.

### 48. People entitled to use the library

(1) The following people may use the library free of charge —

- (a) judges and magistrates;
- (b) members and officers of State or Commonwealth courts, tribunals, boards or similar bodies;
- (c) local legal practitioners;
- (d) articulated clerks and other persons undertaking approved practical legal training requirements (within the meaning given in section 21 of the Act);
- (e) members of Parliament;
- (f) members of a department of the staff of Parliament referred to in the *Parliamentary and Electorate Staff (Employment) Act 1992*;
- (g) members of the Police Force;
- (h) holders of an office, post or position established under an Act;

- (i) public service officers and employees within the meaning given in the *Public Sector Management Act 1994*;
  - (j) employees of persons referred to in any of paragraphs (a) to (i) acting in the course of their employment.
- (2) Law students may use the library free of charge subject to any restrictions determined by the committee.
- (3) The following people may use the library subject to any restrictions, including as to payment of a fee, determined by the committee —
- (a) interstate legal practitioners;
  - (b) Australian-registered foreign lawyers;
  - (c) employees of persons referred to in paragraphs (a) or (b) acting in the course of their employment;
  - (d) litigants in person, and officers and employees of corporate litigants;
  - (e) any other person, or class of people, determined by the committee.

**49. Librarian may suspend or restrict entitlement to use library**

- (1) If it appears to the librarian that there are sufficient grounds for doing so, the librarian may summarily suspend, or impose restrictions on, a person's entitlement to use the library for such period as the librarian thinks fit.
- (2) The librarian may revoke or alter the terms of a suspension or restriction.
- (3) The librarian must notify the committee of any suspension or restriction imposed by the librarian and the revocation or any alteration of it.
- (4) The committee may confirm, revoke, or alter the terms of, a suspension or restriction imposed by the librarian.



- (5) Whether or not the committee has acted under subrule (4), the Board may confirm, revoke, or alter the terms of, a suspension or restriction imposed by the librarian.

**50. Board may suspend or restrict entitlement to use library**

- (1) If it appears to the Board that there are sufficient grounds for doing so, the Board may suspend, or impose restrictions on, a person's entitlement to use the library.
- (2) The Board may revoke or alter the terms of a suspension or restriction.

**51. Use of the library and books**

- (1) If required by the librarian to do so, a person must register with the librarian before using the library or any books.
- (2) A person entitled to use the library may do so —
- (a) during the library's opening hours, as determined by the Board; or
  - (b) at other times by arrangement with the librarian.
- (3) A person in the library or using a book must comply with any reasonable direction given by the librarian.
- (4) A person who uses a book —
- (a) must not mark or damage it; and
  - (b) must report to the librarian any mark or damage on or to it; and
  - (c) must not leave it unattended; and
  - (d) when finished with it, must return it to its proper place in the library or to a place provided by the librarian for the return of books.
- (5) A person must not eat, drink or smoke in the library.

- (6) A person in the library must open for inspection any bag or other receptacle in the person's possession at the request of the librarian.
- (7) The librarian may open and inspect any bag or other receptacle found unattended in the library.
- (8) A person must not obstruct or hinder the librarian in the performance of his or her duties.

**52. Borrowing books**

- (1) A person must not remove a book from the library unless —
  - (a) it is for use in a hearing in the building in which the library is situated; or
  - (b) the librarian has authorised the removal of the book.
- (2) Subrule (1)(a) does not apply to a book labelled as being not to be removed from the library.
- (3) Before removing a book from the library a person must record on a form provided by the librarian —
  - (a) his or her name; and
  - (b) his or her office or the name of the firm, department or other body of which he or she is a member, officer or employee; and
  - (c) the title of the book; and
  - (d) the date and time.
- (4) Unless otherwise authorised by the librarian, a person removing a book from the library for the purposes of a hearing —
  - (a) must not remove the book more than one hour before the hearing commences; and
  - (b) must return the book within 30 minutes after the end of the hearing,

and if the hearing continues for more than one day,  
paragraphs (a) and (b) apply separately for each day.

**53. Removal of unauthorised people and retrieval of books**

- (1) The librarian may exclude or remove from the library a person who appears to the librarian —
  - (a) not to be entitled to use the library; or
  - (b) to be in breach of rule 51 or 52.
- (2) The librarian may retrieve a book if it appears to the librarian that —
  - (a) it was removed from the library in breach of rule 52; or
  - (b) the person who removed it is in breach of rule 51.

## **Part 6 — General matters**

### **54. Documents given to or by the Board**

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

### **55. Board may excuse noncompliance**

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

### **56. Rules repealed**

The *Legal Practice Board Rules 2004* are repealed.

**Schedule 1 — Fees**

[r. 4 and 25]

**1. Terms used**

In this Schedule —

*after the overdue period* means the period commencing on the 1 August after the expiry of a local practising certificate, and ending 6 months after the expiry of the local practising certificate;

*late fee period* means the period prescribed by rule 5(3);

*overdue period* means the period ending on the 31 July after the expiry of a local practising certificate;

*standard fee* means \$1 000 (before 1 July 2015) or \$1 250 (on or after 1 July 2015);

*standard renewal period* means the period prescribed by rule 5(2).

[Clause 1 amended in Gazette 12 Apr 2011 p. 1311; 12 Dec 2014 p. 4719.]

**2. Fees**

The fees payable in respect of the matters listed in the Table are the fees specified in the Table.

**Table**

<b>Rule</b>	<b>Subject matter</b>	<b>Fee</b>
r. 4	Grant of local practising certificate —	
	(a) applicant is entitled to a discount under rule 4(2) —	
	(i) application made through website for practising certificate for period ending 30 June 2011 .....	45% of standard fee
	(ii) application made through	

**cl. 2**

<b>Rule</b>	<b>Subject matter</b>	<b>Fee</b>
	website for practising certificate for period commencing on or after 1 July 2011.....	50% of standard fee
	(iii) written application.....	50% of standard fee
(b)	applicant not entitled to discount under rule 4(2) —	
	(i) application made through website for practising certificate for period ending 30 June 2011 .....	95% of standard fee
	(ii) application made through website for practising certificate for period commencing on or after 1 July 2011.....	standard fee
	(iii) written application.....	standard fee
r. 4	Renewal of local practising certificate —	
	(a) application made during standard renewal period .....	standard fee
	(b) application made during late fee period.....	125% of standard fee
	(c) application made under section 44(4) of the Act during the overdue period.	150% of standard fee

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<b>Rule</b>	<b>Subject matter</b>	<b>Fee</b>
	(d) application made under section 44(4) of the Act after the overdue period....	200% of standard fee
r. 25	Grant of registration as a foreign lawyer ...	standard fee
r. 25	Renewal of registration as a foreign lawyer —	
	(a) application made before 1 June in the year in which the registration is due to expire .....	standard fee
	(b) application made on or after 1 June in the year in which the registration is due to expire .....	125% of standard fee

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*[Clause 2 amended in Gazette 12 Apr 2011 p. 1311-13.]*

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## Notes

<sup>1</sup> This is a compilation of the *Legal Profession Rules 2009* and includes the amendments made by the other written laws referred to in the following table.

### Compilation table

Citation	Gazettal	Commencement
<i>Legal Profession Rules 2009</i>	24 Feb 2009 p. 411-47	r. 1 and 2: 24 Feb 2009 (see r. 2(a)); Rules other than r. 1 and 2: 1 Mar 2009 (see r. 2(b) and <i>Gazette</i> 27 Feb 2009 p. 511)
<i>Legal Profession Amendment Rules 2009</i>	7 Apr 2009 p. 1135-6	r. 1 and 2: 7 Apr 2009 (see r. 2(a)); Rules other than r. 1 and 2: 8 Apr 2009 (see r. 2(b))
<i>Legal Profession Amendment Rules 2010</i>	26 Oct 2010 p. 5290	r. 1 and 2: 26 Oct 2010 (see r. 2(a)); Rules other than r. 1 and 2: 27 Oct 2010 (see r. 2(b))
<i>Legal Profession Amendment Rules 2011</i>	12 Apr 2011 p. 1311-13	r. 1 and 2: 12 Apr 2011 (see r. 2(a)); Rules other than r. 1 and 2: 13 Apr 2011 (see r. 2(b))
<i>Legal Profession Amendment Rules (No. 2) 2014</i>	12 Dec 2014 p. 4718-19	r. 1 and 2: 12 Dec 2014 (see r. 2(a)); Rules other than r. 1 and 2: 13 Dec 2014 (see r. 2(b))
<a href="#"><i>Legal Profession Amendment Rules 2015</i></a>	<a href="#">20 Feb 2015 p. 680-8</a>	<a href="#">r. 1 and 2: 20 Feb 2015 (see r. 2(a)); Rules other than r. 1 and 2: 21 Feb 2015 (see r. 2(b))</a>