

WESTERN AUSTRALIA

**LEGAL PRACTICE
BOARD RULES 1949**

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WESTERN AUSTRALIA

**LEGAL PRACTICE BOARD
RULES 1949**

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WESTERN AUSTRALIA

LEGAL PRACTITIONERS ACT 1893

**LEGAL PRACTICE BOARD
RULES 1949**

PART I — INTRODUCTORY

Citation

1. These rules may be cited as the *Legal Practice Board Rules 1949*¹.
*[Rule 1 inserted in Gazette 12 December 1986 p.4807;
amended in Gazette 18 March 1994 p.1043.]*

Repeal and savings

2. *[Rule 2 omitted under Reprints Act 1984 s. 7 (4) (f) and (g).]*

Interpretation

3. In the interpretation of these rules —
“**Secretary**” shall mean the Secretary for the time being of the
Board;

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“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.]

Varying time periods

3A. 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

Annual election date

4. 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.]

Board to appoint electoral officers

5. 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.]

Time for lodging nomination

6. 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.]

Candidates elected where nominations equal vacancies

7. 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.]

Method of election

8. (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 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.]

Day when successful candidate to take office

9. 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.]

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

10. 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.

Non-receipt of ballot papers

11. 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

Meetings to be held

12. 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.

Convening of meetings

13. 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.

Quorum

14. 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.

Voting at meeting

15. 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.

Rescission or amendment

16. No resolution arrived at or act, matter, or thing done or authorized 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.

Minutes

17. 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.]

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.

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

Term of articles

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

[Rule 19 inserted in Gazette 24 November 1995 p.5395.]

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.

[Rule 20 inserted in Gazette 24 November 1995 pp.5395-6.]

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.

[Rule 21 inserted in Gazette 24 November 1995 p.5396.]

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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.

[Rule 22 inserted in Gazette 24 November 1995 p.5396.]

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.

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

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.

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

Conduct of articled clerks

25. (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 the Schedule 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.]

Supervision of articled clerks

26. (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.]

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.

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

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.

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

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.

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

Credits

30. The Board may, where it considers appropriate, credit an articulated 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.]

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.

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

Division 3 — Miscellaneous

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

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 32 inserted in Gazette 24 November 1995 p.5398.]

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

PART V — MANAGING CLERKS

Requirements for approval as a managing clerk

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

- (a) an application in Form H in the Schedule;
- (b) evidence as to the date and place of his birth;
- [(c) *deleted*]
- (d) a certificate as to character in Form C in the Schedule 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.]*

Board may approve or reject application

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

Information and answer to questions

41. 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.

Date when applicants employment deemed to commence

42. 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.

Prescribed examinations

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

- (a) not less than 8 subjects in law chosen in consultation with the Dean of the Law School of the University of Western Australia and with the approval of the Board from those subjects offered at the Law School towards the degree of Bachelor of Jurisprudence and —
- (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.]

Approval to be given before sitting for exams

44. (1) No managing clerk shall sit for any of the examinations referred to in rule 43 (a) unless he 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 has satisfied the examination requirement prescribed in rule 43 (a).

[Rule 44 inserted in Gazette 27 February 1981 p.800.]

Period for passing exams

45. 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.]

Records to be kept

48. 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 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 card index showing the names of all practitioners by whom managing clerks are employed, and the names of such managing clerks.

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

Board may require answers on conduct of managing clerk

49. The Board may at any time require a managing clerk approved by the Board and any practitioner by whom he 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.

Notification of change of employment

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

PART VA — CONTROL OF CERTAIN PRACTICES

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

Service of order to a banker

50A. 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.]*

Notice to be given by supervising solicitor

50B. 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.]

Notice to be given by supervising solicitor in the case of a deceased practitioner

50C. 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.]

Conduct of business by supervising solicitor

50D. 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 practices of a

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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

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

51. 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 which such complaint or complaints have been disposed of;

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- (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.]

Admission fee

51A. 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.]

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

52. 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 the Schedule, 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; 24 November 1995 p.5399.]

Requirements for admission

53. (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 the Schedule.
- (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.]

Certificate to be produced before admission

54. 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 the Schedule. 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.

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

Applicant for admission to appear in person

55. 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 the Schedule.

Rules may be varied

55A. 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

Application for re-admission

56. 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 the Schedule together with a fee of \$63.

Certificates with affidavit

57. 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.

Board to fix time and place for examination of applicant

57A. 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.]

Secretary may issue summons

57B. 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 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.]

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Conduct of hearing

57C. 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.]

Recording evidence

57D. 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.]

Board may refuse or approve application

57E. 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 the Schedule.

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

Rules which apply to applicants for re-admission

57F. 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.]

Application for re-admission to be advertised

58. 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

Annual fee

60. (1) Subject to subrule (2) the annual fee to be paid by each practitioner for the issue of each annual practice certificate is \$400.

(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 \$200.

[Rule 60 inserted in Gazette 1 May 1992 p.1797²; amended in Gazette 20 June 1995 p.2402.]

Form of annual practice certificate

61. On application being made in Form U of the Schedule 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 the Schedule 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.]

Register to be kept

62. 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.

Changed particulars to be notified and register to be amended

63. 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.]

Service of documents

65. 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.

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PART VIII — SOLICITORS' GUARANTEE FUND

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

Annual amount payable

65A. 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 — COMPLAINTS AGAINST PRACTITIONERS

Complaint

66. A complaint under sections 25 or 25A of the Act shall —
- (a) distinctly state the conduct complained of;
 - (b) be in the Form W in the Schedule;
 - (c) be verified by the statutory declaration of the complainant unless the Board dispenses with this requirement.

[Rule 66 amended in Gazette 29 June 1962 p.1669.]

Complaint to be filed and copy posted to practitioner

67. The complaint shall be filed with the Secretary and the Secretary shall forthwith send a copy thereof by registered post to the practitioner whose conduct is complained of.

Practitioner to file answer

68. Within 14 days after service of the copy complaint, the practitioner shall file with the Secretary in duplicate an answer to the complaint verified by statutory declaration. The Secretary shall forthwith send by registered post to the complainant at the address shown in the complaint one copy of such answer.

[Rule 68 amended in Gazette 7 March 1974 p.741.]

Further particulars

69. The Board or the Chairman may at any time by notice in writing require the complainant or the practitioner to give within such time as may be fixed by such notice further particulars of any of the matters contained in the complaint or the answer. Such further particulars shall be verified by statutory declaration and shall be filed with the Secretary in duplicate who shall forthwith send one copy thereof by registered post to the other party.

Copies to be supplied

70. Either party shall when required by the Secretary provide him with such number of copies of all documents filed by such party as the Secretary shall require.

Time and place for hearing

71. When the answer has been filed or if no answer is filed then when the time for filing the answer has expired, the Board shall fix a time and place for the hearing of the complaint and shall cause not less than 7 clear days' notice thereof in writing to be given to the parties.

Either party may have summons issued

72. Either party may apply to the Secretary to issue a summons for the attendance of any person (including the other party) or the production of any documents whom or which the party may desire to call or have produced. Such summons shall be in one of the Forms X or Y in the Schedule.

Conduct of hearing

73. (1) Any party may appear before the Board in person or by solicitor or counsel.

(2) The hearing shall be conducted in such manner as the Board may determine.

(3) The Board may adjourn the hearing from time to time.

Evidence to be recorded

74. 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.

Report to Full Court

75. (1) If the Board shall decide to transmit a report to the Full Court the report shall be signed by the Chairman on behalf of the Board and within 7 days of the same being signed the report with 2 copies thereof and with 3 copies of the evidence taken at the hearing shall be filed in the Central Office of the Supreme Court, and within the like time the Secretary shall send a copy of the report to the complainant and to the practitioner.

(2) In every other case the decision of the Board shall be reduced to writing and shall be signed by the Chairman on behalf of the Board and the Secretary shall send a copy thereof to the complainant and to the practitioner.

Rules may be varied

76. (1) The Board may extend or abridge the time for doing any act under this Part, and in cases of urgency the Chairman or any 2 members of the Board may exercise the powers of the Board in that behalf.

(2) If in any case the Board is of opinion that to require compliance with any rule in this Part would work injustice to any party the Board may by special order vary the provisions of such rule in that particular case.

Board may investigate practitioner where no complaint is laid

77. If the Board resolves to investigate the conduct of a practitioner although no complaint has been made against him the Board may —

- (a) by letter indicating the general subject matter of the inquiry summon the practitioner to appear before it to answer such questions and to produce such documents touching his conduct as the Board may think fit and thereupon the practitioner is bound to comply with the requirements of the Board and the inquiry may in the discretion of the Board proceed in all respects as if it had been initiated by a complaint; or

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- (b) direct the Secretary to lay a complaint against the practitioner in the Form Z in the Schedule whereupon the matter shall proceed as prescribed by the preceding rules in this Part, except that in all things relating to his position as complainant the Secretary shall act upon the directions of the Chairman or of such other member of the Board as the Board may designate.

[Rule 77 inserted in Gazette 19 September 1975 p.3599.]

PART X — LAW LIBRARY

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

Interpretation

78. 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.*]

Persons who are entitled to use the Library

79. (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;

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- (d) public service officers and statutory officers of the State and members of the police force of the State.

(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.]

Entitlement may be suspended by Librarian

79A. (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.]

Entitlement may be cancelled or suspended by the Board

79B. 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.]

Other persons may be permitted to use the Library

79C. (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.]

Permission may be withdrawn

79D. 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.]

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Times during which Library can be used

79E. (1) The Library is to be open during such hours as the Board may from time to time direct.

(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.]

Repair of books

80. The Librarian may remove or authorize 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.]

Books not to be removed from Library

81. (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 sub-rule (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.]

Librarian to have general control

82. 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.]

Directions to Librarian

82A. (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.]

Provisions applicable to person using Library

83. (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.]

Librarian may inspect baggage

84. 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.]*

Book to be returned to its proper place

85. 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.]

Books not to be misplaced or secreted

86. A person shall not misplace or secrete any book.

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

Books not to be damaged, etc.

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

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

Person to report damaged book

88. 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.]

Sale or removal of any book

89. 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.]*

No smoking or eating

89A. 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.]

Interpretation and application

90. (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.]

Accounting records

91. (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 sub-rule (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 sub-rule 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 sub-rule (2) shall comply with that requirement.

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

Trust moneys to be deposited to a trust account

92. 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.]

Books of account

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

- (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 sub-rule (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 sub-rule (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 sub-rule (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 sub-rule.

(6) Where a continuous record as is referred to in sub-rule (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.]

Trust ledger

94. (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 sub-rule (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 sub-rule (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 cheque, if and while that bank 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 sub-rule (2).

[Rule 94 inserted in Gazette 10 November 1972 p.4334.]

Written record of all money received

95. (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 sub-rule (3).

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

Direction to be in writing

95A. (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 sub-rule (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) Sub-rule (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.]

Bank deposit record

96. (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;
- (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;

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- (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.]

Cheques

97. 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.

[Rule 97 inserted in Gazette 10 November 1972 p.4334.]

Account in trust ledger

98. (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.

(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.*]

Trust account to be balanced

99. (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 sub-rule (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 sub-rule (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 sub-rule (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.]

Interpretation

100. 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) hereof.

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

Certificate to be furnished

101. (1) Every practitioner shall furnish the Board with a Certificate in accordance with the form in the Schedule to this Part 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 sub-rule (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 sub-rule (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 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 sub-rule (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 sub-rule (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 sub-rule (1) for the purpose of enabling the practitioner to comply with that sub-rule 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.]

r. 102

Effect of privilege

102. 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.*]

Persons who may share costs

103. 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, 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.*]

Restrictions on sharing costs

104. (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.]*

Arrangement for sharing costs to be in writing

105. 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.]

Costs not to be shared in certain matters

106. 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,

- (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.]

“Employer” includes a related corporation

107. 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 deemed to be related to the employer by virtue of section 7 (5) of the *Companies (Western Australia) Code*⁴.

[Rule 107 inserted in Gazette 2 March 1990 p.1289.]

Sch.

The Schedule Referred to

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;
- (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 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.

Sch.

Signed by the parties as a deed.

Signed by AB
in the presence of:

Witness

Signed by CD
in the presence of:

Witness

¹ 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.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): ...'

Legal Practice Board Rules 1949

Sch.

- 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,

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 199

Signed by

¹ This Form may be used, with necessary alterations, for the purposes of Section 16 (b) of the Act (managing clerks).

Sch.

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 199

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

Dated 199

Signed

I¹ agree to this application being made and the assignment of the Applicant's articles to

Dated 199

Signed

I² agree to accept the assignment of the Applicant's articles.

Dated 199

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.

Sch.

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 of¹; and
2. to approve the registration of new articles with
for the unexpired balance of the former articles.

Dated 199

Signed

I² agree to this application being
made and the cancellation of the Applicant's articles to me.

Dated 199

Signed

I³ agree to become the principal
under the Applicant's new articles.

Dated 199

Signed

¹ Or 'died on

² Present principal

³ New principal.

Sch.

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.

Dated 199

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 practitioners1.

Dated 199

Signed

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

Sch.

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 by University.
2. I have been an Articled Clerk under Articles registered with the Board on 199 .
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.

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 199 and since199 ,
 I have been so employed as managing clerk.
2. My application for approval by the Board was granted by the
 Board on199 .
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.

[FORMS K, L, M and N deleted]

Sch.

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.

[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, 19

(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).”

Legal Practice Board Rules 1949

Sch.

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, 19

(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, 19

(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 readmitted as a practitioner.

Sworn, etc.

FORM U

Rule 61

APPLICATION FOR A PRACTISING CERTIFICATE

(Rules of The Legal Practice Board Part VIII)

I, (Mr/Mrs/Miss) (Full name)
of (Place of residence) (Postcode) (Telephone)
hereby make application for a Practising Certificate for the 12 months commencing on 1 July in the year in which this application is made.

- 1. I practise: —
(a) on my own behalf under the firm name of
(b) as a member of the firm of
(c) as an employee of
(d) as a member of the Independent Bar.
(e)
2. (a) My place(s) of business is/are Telephone:
or
(b) My employer's principal place of business is Telephone:
3. (a) I (my firm) keep a trust account which is audited by of
or
(b) I do not keep and am not liable under the Act and Rules to keep a separate Trust Account being —
(i) an employee of a firm;
(ii) a Practitioner who does not hold or disburse money on behalf of some other person.
4. I (my firm) maintain my trust bank account at (Branch)
..... (Bank)
5. 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.

- 6. I am also on the Roll of Practitioners for
- 7. I enclose the accountant's certificate pursuant to the provisions of Division III of Part XI of The Legal Practice Board Rules
- 8. I enclose cheque/cash for:
 - (a) the practising fee payable upon this application; \$
 - (b) my contribution to the Solicitor's Guarantee Fund; \$

(See 3 (a) on enclosed notes) _____

TOTAL \$ _____

Dated the day of 19

Application must be made before 30 JUNE.

.....
Signature of Applicant.

Form V

Rule 61

Western Australia

ANNUAL PRACTICE CERTIFICATE

Certificate Number Date of Expiry 30 June 19

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 19

Dated this day of 19

Fee paid \$

.....
Secretary of The Legal Practice Board

Legal Practice Board Rules 1949

Sch.

FORM W

Rule 66

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 complainant) against (name of practitioner).

Complaint to The Legal Practice Board.

Name of Complainant

Address

Name of Practitioner

Address

Particulars of Complaint.

I the abovenamed
complainant, do solemnly and sincerely declare that the
abovementioned particulars are true and correct.

And I make this solemn declaration conscientiously believing the
same to be true by virtue of section 106 of the *Evidence Act 1906*.

Declared at Perth by the said this
day of 19.....

before me

FORM X

Rule 72

In the Supreme Court of Western Australia.

In the matter of the *Legal Practitioners Act 1893*, and in the matter of a complaint by against (name of practitioner).

ELIZABETH THE SECOND by the Grace of God, of the United Kingdom, Australia and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To —

Greetings: You are hereby commanded to attend before The Legal Practice Board Perth on the day of 19 at the hour of o'clock in the noon and so from day to day until the above complaint is heard and determined to give evidence (on behalf of the).

Dated the day of 19

(Sgd.)
Chairman of The Legal Practice Board.



Sch.

FORM Y

Rule 72

In the Supreme Court of Western Australia.

In the matter of the *Legal Practitioners Act 1893*, and in the matter of a complaint by against (name of practitioner).

ELIZABETH THE SECOND by the Grace of God, of the United Kingdom, Australia and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To —

Greeting: You are hereby commanded to attend before The Legal Practice Board Perth on the day of, 19 at the hour of o'clock in the noon and so from day to day until the above complaint is heard and determined to give evidence (on behalf of the) and also to bring with you and produce at the place and time aforesaid the following documents: —

Dated the day of 19

(Sgd.)
Chairman of The Legal Practice Board.

FORM Z

Rule 77 (2)

In the Supreme Court of Western Australia.

In the matter of the *Legal Practitioners Act 1893*, and in the matter of a complaint by the Secretary of The Legal Practice Board against (name of practitioner).

Complaint to The Legal Practice Board.

Name of Complainant the
Secretary of The Legal Practice Board.

Name of Practitioner

Address

Particulars of Complaint.

.....
Secretary of The Legal Practice Board
by direction of the Board.

Legal Practice Board Rules 1949

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 19 and ending on 31 March 19 .

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:

- (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.

Delete as necessary

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 19 .
.....
SIGNATURE

[Schedule amended in Gazette 29 June 1962 p.1669; 19 April 1967 pp.985-86; 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.5399-5407.]

Legal Practice Board Rules 1949

NOTES

¹ This reprint is a compilation as at 26 May 1997 of the *Legal Practice Board Rules 1949* and includes the amendments in the reprint published in the *Gazette* on 6 May 1987 and amendments effected by the regulations referred to in the following Table.

Table of Rules

Rule	Gazettal	Commencement	Miscellaneous
	5 August 1949 pp.1876-85	5 August 1949	Originally known as <i>Rules of the Barristers' Board</i> . Citation inserted and subsequently amended (see note under Rule 1)
(Rules effecting amendments in the previous reprint are not referred to in this Table)	6 May 1987 pp.2011-58		
<i>Barristers' Board Amendment Rules 1987</i>	12 June 1987 p.2320	1 July 1987	
<i>Barristers' Board Amendment Rules (No. 2) 1987</i>	4 September 1987 pp.3485-6	4 September 1987	
<i>Barristers' Board Amendment Rules 1988</i>	13 May 1988 p.1585	13 May 1988	
<i>Barristers' Board Amendment Rules (No. 2) 1988</i>	2 September 1988 p.3395	2 September 1988	Rule 5: saving ³
<i>Barristers' Board Amendment Rules 1989</i>	3 March 1989 p.667	3 March 1989	
<i>Barristers' Board Amendment Rules (No. 2) 1989</i>	14 July 1989 pp.2132-3	14 July 1989	
<i>Barristers' Board Amendment Rules 1990</i>	2 March 1990 pp.1288-9	2 March 1990	
<i>Barristers' Board Amendment Rules 1991</i>	8 March 1991 pp.1031-2	8 March 1991	

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Rule	Gazettal	Commencement	Miscellaneous
<i>Barristers' Board Amendment Rules (No. 2) 1991</i>	5 April 1991 p.1401	5 April 1991	
<i>Barristers' Board Amendment Rules (No. 3) 1991</i>	12 April 1991 p.1605	26 April 1991 (see rule 2 and <i>Gazette</i> 26 April 1991 p.1843)	
<i>Barristers' Board Amendment Rules (No. 4) 1991</i> corrigendum 9 August 1991 p.4113	2 August 1991 pp.3992-3	2 August 1991	
<i>Barristers' Board Amendment Rules 1992</i>	1 May 1992 pp.1796-7	1 May 1992	Rule 4: transitional ²
<i>Barristers' Board Amendment Rules 1994</i>	18 March 1994 pp.1043-6	18 March 1994	
<i>Legal Practice Board Amendment Rules 1995</i>	20 June 1995 p.2402	20 June 1995	
<i>Legal Practice Board Amendment Rules (No. 2) 1995</i>	24 November 1995 pp.5394-407	24 November 1995	

² Rule 4 (2) of the *Barristers' Board Amendment Rules 1992* 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. ”

³ Rule 5 of the *Barristers' Board Amendment Rules (No. 2) 1988* reads as follows —

“ **Saving**

5. 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. ”

Legal Practice Board Rules 1949

⁴ In respect of matters arising after 1 January 1991, the operation of the *Companies (Western Australia) Code* is subject to the provisions in Division 2 of Part 13 of the *Corporations (Western Australia) Act 1990*.