

**RULES OF THE LEGAL PRACTITIONERS
EDUCATION AND ADMISSION COUNCIL 2004**

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Pursuant to sections 14C, 14J and 17A of the *Legal Practitioners Act 1981* as amended and to all other enabling powers, the Legal Practitioners Education and Admission Council makes the following Rules:

1 PRELIMINARY

1.1 These rules-

- (a) may be cited as the LPEAC Rules 2004;
- (b) will come into operation on 1 January 2004.

1.2 Upon the coming into operation of these rules, the LPEAC Rules 1999 are repealed.

1.3 In these Rules unless the contrary intention appears -

admission means admission and enrolment as a practitioner.

Board of Examiners or **Board** means the Board of Examiners established pursuant to section 14I of the Act.

court means the Full Court of the Supreme Court.

CPD means continuing professional development.

CPD year means a year beginning on 1 April to the following 31 March.

employed practitioner means a practitioner with an employee practising certificate employed to perform predominantly the work of a legal practitioner:

- (i) in a private law practice;
- (ii) in a government department or semi-government authority, if the employment requires the performance of the work of a legal practitioner which the Council considers appropriate for the purposes of these rules;
- (iii) in a corporate legal office;
- (iv) in a community legal service;
- (v) in the office of the Crown Solicitor, the Director of Public Prosecutions, the Commonwealth Australian Government Solicitor or the Commonwealth Director of Public Prosecutions;
- (vi) in any other organisation, department or office which the Council approves for the purposes of this rule;
- (vii) as a judge's associate which work so qualifies.

Graduate Diploma in Legal Practice (GDLP) means the diploma so described awarded by the Law Society.

Judge's Associate means an associate to a judge of the Supreme or District Court of South Australia or a federal court of Australia and includes an Associate to Magistrates in the Magistrates Court of South Australia.

Law Society means the Law Society of South Australia.

local applicant means a person applying for admission on the basis of academic and practical qualifications obtained in Australia.

LPEAC means the Legal Practitioners Education and Admission Council established pursuant to section 14B of the Act.

mandatory continuing professional development or **MCPD** means the activities set out in Appendix CA.

practising certificate means a practising certificate issued pursuant to s16 of the Act in one of the categories prescribed in Rule 3B.

prescribed amount of Mandatory Continuing Professional Development is as set out in Appendix CA.

Registrar means the Registrar of the Supreme Court.

supervised practice means practice as an employed practitioner controlled or managed by a legal practitioner entitled to practise as a principal during which supervised practise the practitioner is employed at the location where the principal conducts his or her practice.

Supreme Court means the Supreme Court of South Australia.

the Act means the Legal Practitioners Act 1981 as amended.

the Council means LPEAC.

the repealed rules means the rules repealed by rule 1.2.

the State means the State of South Australia.

to practise as principal means to practise whilst holding a Category A or Category B principal practising certificate as prescribed in Rule 3B following completion of supervised practice.

volunteer means a person who receives no remuneration for the work they do or who is only reimbursed for expenses actually incurred during the course of them carrying out the work.

1.3A For the purpose of Rule 2.4(d) and Rule 2.4(e) of these Rules:

appropriate workplace for the purpose of overseas work experience as part of an approved practical legal training course means:

- (a) the office of a Legal Practitioner in private practice;
- (b) the legal office or department of a government or quasi-government body; or
- (c) the legal office or department of a corporation,

in a common law jurisdiction where the nature of the legal work is equivalent to the legal work undertaken in a comparable office in Australia.

approving body means an organisation responsible to deliver a course of Practical Legal Training which is accredited by the Council under these Rules as providing through its training the required competence in the skills values and practice areas set out in Appendix B.

eligible supervisor means a Legal Practitioner who:

- (a) has been in practice for at least the five years preceding the commencement of the proposed work experience;
- (b) has not been the subject of any finding by a relevant court, licensing authority or disciplinary body under any law relating to the legal profession that, in the opinion of the approving body, makes it inappropriate for that person to act as a supervisor; and
- (c) demonstrates to the satisfaction of the approving body that he or she will be in a position to devote adequate time to supervising the work experience of the applicant.

legal practitioner means a person who:

- (a) has been admitted to legal practice; and
- (b) holds a practising certificate or equivalent authorisation,

in either an Australian jurisdiction, or in the jurisdiction where the student's approved workplace experience will occur.

relevant experience means experience in delivering legal services of a type, and in a manner, comparable with the delivery of legal services in Australia, which includes experience in applying common law legal knowledge and skills to practical legal problems:

- (a) in the procedures and relationships commonly found in a legal office;
- (b) in meeting and dealing with clients of the legal office; and
- (c) that promotes professional legal attitudes, ethics and responsibilities, comparable to those required to practise law in Australia;

and if the approving body so requires completion of either or both of:

- (d) a minimum period of workplace experience; and
- (e) particular tasks specified in advance by the approving body.

1.3B For the purpose of Rule 3A of and Appendix C to these Rules, a reference to the **Law Society** is a reference to the Law Society while it continues to be assignee of the functions of the Supreme Court in respect of the issue and renewal of practising certificates pursuant to the Supreme Court Admission Rules and section 52A of the Act and, if it ceases to be such assignee, then the term is be read as a reference to the Supreme Court.

2 REQUIREMENTS FOR ADMISSION

- 2.1 The academic requirement for admission is the completion of a tertiary academic course in Australia, whether or not leading to a degree in law, which includes the equivalent of at least three years full-time study of law, being a course of study which, in the opinion of the Council, requires a satisfactory level of understanding and competence in the areas of knowledge referred to in Appendix A.
- 2.2 The degree of Bachelor of Laws of the University of Adelaide and the degrees of Bachelor of Laws and Bachelor of Laws and Legal Practice of the Flinders University of South Australia and the degree of Bachelor of Laws of the University of South Australia are, so long as in the opinion of the Council they require a satisfactory level of understanding and competence in the areas of knowledge referred to in Appendix A, sufficient academic courses for the purposes of this rule.

[Rule 2.3 deleted by LPEAC Rules 2004 (Amendment No. 3)]

2.4 The practical requirements for admission are:

- (a) The completion of a course of study commenced in compliance with Appendix B and which in the opinion of the Council requires understanding and competence in the skills, values and practice areas set out in Appendix B at the level of proficiency therein prescribed.
- (b) The course of study leading to the grant of the Graduate Diploma in Legal Practice or the course of study leading to the degree of Bachelor of Laws and Legal Practice of the Flinders University of South Australia or the course of study provided by the College of Law Limited known as the South Australia PLT Program which courses shall be sufficient practical courses for the purposes of this rule so long as the Council forms the opinion required by sub-rule (a) with respect to those courses and continues to hold that opinion; or
- (c) The completion of at least one year's articles of clerkship, together with the completion of such supplementary course of study or other form of tuition or training which, in the opinion of the Council, will be likely to achieve understanding and competence in the skills, values and practice areas set out in Appendix B at the level of proficiency therein prescribed.
- (d)
 - (i) A Practical Legal Training course of study approved under these Rules will include a period of workplace experience to be undertaken in accordance with the provisions of this Rule in an appropriate workplace.
 - (ii) Such workplace experience may be undertaken in Australia or out of Australia provided that prior approval has been given by the approving body in respect of the proposed workplace experience.
- (e) When approval may be given:

An approving body may approve an application to undertake work experience outside Australia only if the approving body:

- (i) receives and approves the application before the applicant commences the workplace experience for which approval is sought; and
 - (ii) is satisfied that the applicant will obtain relevant experience in an appropriate workplace, under the supervision of an eligible supervisor.
- 2.5 A tertiary institution or other course provider may apply to the Council for approval of an academic course or a practical course or a combined academic and practical course.
- 2.6 (a) To assist the Council in determining whether or not a course offered wholly or in part in-house by an employer during the course of employment of an applicant for admission is of a nature and standard to enable it to form the opinion required by rule 2.4, the Council may require an employer or a principal engaged in the practice conducted by the employer to certify that the course offered by the employer, together with such other training or experience which the applicant for admission has received or will receive before admission will, in the opinion of the person furnishing the certificate, be sufficient to impart an adequate understanding and competence in the skills, values and practice areas set out in Appendix B at the level of proficiency therein prescribed.
- (b) A supplementary course of study or other form of tuition or training for the purposes of rule 2.4(c)-
- (i) may be specified by the Council as of general application to all clerks serving in articles or may be directed to a particular clerk or category of clerk intending to serve in articles; and
 - (ii) shall be designed to ensure, so far as is practicable, that upon completion of his or her service in articles, the clerk shall have attained a satisfactory level of understanding and competence in the skills, values and practice areas set out in Appendix B.
- (c) To assist the Council in determining whether or not a supplementary course of study or other form of tuition or training should be undertaken for the purposes of rule 2.4(c) in a particular case, the Council may require that the intended principal furnish to the Council by statutory declaration or by such other means as the Council may request before entry into articles with the intending clerk, details of the nature and scope of the legal work which is likely to be undertaken by the clerk during his or her service in articles and the extent of the supervision and training which will be offered.
- 2.7 In forming an opinion as to a course of study of the kind referred to in rule 2.1 or rule 2.4, the Council may take into account that an admitting authority in any other State or Territory has recognised the particular course of study as satisfying, either wholly or in part, the academic or practical requirement for admission in that State or Territory.

3 RIGHT TO PRACTISE FOLLOWING ADMISSION

- 3.1 A local applicant admitted to practise in this State shall not be entitled to practise as a principal until he or she has completed supervised practice in this State or in another State or Territory by way of:

- (a) a continuous period of two years full-time employment as an employed practitioner, or an equivalent period of part-time employment, following the first issue to him or her of a practising certificate; or
- (aa) a continuous period of two years full-time work as a volunteer practitioner with a volunteer practising certificate, or an equivalent period of part-time work, following the first issue to him or her of a practising certificate; or
- (ab) a combination of employment as an employed practitioner under Rule 3.1(a) and work as a volunteer practitioner under Rule 3.1(aa), which together is the equivalent of two years full-time employment or work; or
- (b) in the case of an applicant for admission who offers as evidence of satisfaction of the practical requirements for admission the completion of no less than twelve months service in articles of clerkship in this State, a continuous period of eighteen months full-time employment as an employed practitioner.

3.2 For the purposes of this rule-

- (a) a local applicant may accumulate periods of practice as an employed practitioner in more than one State or Territory where he or she is entitled to practise;
- (b) the Board may in its discretion permit continuous or discontinuous periods of employment whether full-time or part-time to be accumulated for the purposes of Rule 3.1(a).

3A PRACTISING CERTIFICATE ISSUE & RENEWAL (MCPD QUALIFICATIONS)

- 3A.1 The qualifications for the issue and renewal of practising certificates to individual legal practitioners having effect on or after 1 July 2011 shall include completion of the prescribed amount of Mandatory Continuing Professional Development.
- 3A.2 It is a condition of every practising certificate issued to or renewed by an individual legal practitioner having effect on or after 1 July 2011 that the practitioner undertake the prescribed amount of Mandatory Continuing Professional Development.
- 3A.3 Before a practising certificate will be issued to or renewed by an individual legal practitioner who held a practising certificate in respect of any period after 1 July 2011, the applicant practitioner must first satisfy the Law Society that the practitioner has completed the prescribed amount of MCPD in respect of the preceding CPD year.
- 3A.4 Where an individual legal practitioner has not completed the prescribed amount of Mandatory Continuing Professional Development in respect of the preceding MCPD year:
- (i) the Law Society may:

- (a) direct that a practising certificate be issued to or renewed by the practitioner subject to a condition or conditions which the Law Society considers appropriate and/or may:
 - (b) excuse a practitioner from such compliance where the practitioner has permanently ceased legal practice during the course of the practising year or has given notice of retirement to the Law Society and undertaken not to apply for a further practising certificate in this State or another State or Territory; and
- (ii) on the application of the Law Society or the affected applicant the Board may:
- (a) direct that a practising certificate be issued to or renewed by the practitioner subject to a condition or conditions which the Board considers appropriate and/or may:
 - (b) excuse a practitioner from such compliance where the practitioner has permanently ceased legal practice during the course of the practising year or has given notice of retirement to the Law Society and undertaken not to apply for a further practising certificate in this State or another State or Territory; and/or
 - (c) direct that the practising certificate of the practitioner be suspended for a period specified by the Board or be cancelled.

3A.5 Where the Law Society determines not to issue or renew a practising certificate by reason of sub-rule 3A.3 or where the Law Society directs that a practising certificate be issued to or renewed by the practitioner subject to a condition or conditions, the practitioner may, within 7 days of notification of the determination (or such longer time as the Board may allow), apply to the Board. The Board may:

- (a) if it determines that the practitioner has undertaken the prescribed amount of Mandatory Continuing Professional Development, direct that a practising certificate may be issued or renewed; or
- (b) direct that a practising certificate may be issued or renewed, subject to such further conditions (if any) as may be appropriate, notwithstanding that the practitioner has not so complied; or
- (c) direct that a practising certificate not be issued to or renewed by the practitioner.

3A.6 Where the Law Society has imposed a condition pursuant to Rule 3A.4(i)(a) or the Board has imposed a condition pursuant to Rule 3A.4(ii)(a) the legal practitioner must complete such activities within the period specified in the condition.

3B CATEGORIES OF PRACTISING CERTIFICATES

Practising certificates issued pursuant to the *Legal Practitioners Act 1981* will be in the following categories:

Category A – a principal practising certificate which enables the practitioner to practise as the principal of a law practice entitled to receive and manage trust monies.

Category B – a principal practising certificate which enables the practitioner to practise as a principal of a law practice but not entitled to receive and manage trust monies, which category shall include practitioners who only practise as barristers.

Category C – an employee practising certificate which enables the practitioner to undertake the work of an employed practitioner on a supervised basis pursuant to Rule 3 and after compliance with that Rule as an employed practitioner.

Category D – a volunteer practising certificate which enables the practitioner to undertake legal practise in the manner they are otherwise entitled to in accordance with Rule 3, but only as a volunteer for a community legal centre (as defined in the Act) or for an institution or project approved by LPEAC and where the practitioner will be covered by professional indemnity insurance.

Practising certificates in Categories A, B and C will not be issued before 30 June 2016.

4 OVERSEAS APPLICANTS

- 4.1 A person who holds qualifications obtained outside Australia which are recognised as qualifying him or her to be admitted to practise in an overseas jurisdiction, including New Zealand, but who is not admitted to practise in that jurisdiction, may apply to the Board for a direction as to what further, if any, academic or practical requirements must be complied with in order to satisfy the requirements for admission in the State.
- 4.2 An applicant for such a direction must lodge with the Board a statutory declaration-
- (a) stating the nature and details of the applicant's academic qualifications and practical qualifications and experience;
 - (b) providing evidence that the applicant has the academic and practical qualifications relied upon, annexing to the declaration any original or authenticated documentary evidence that the applicant has the academic and practical qualifications relied upon; and
 - (c) stating whether the applicant has applied for admission in any other Australian jurisdiction and the result of any such application.
- 4.3 In dealing with any application under rule 4.1, the Board may decline to give a direction or direct that the applicant:
- (a) comply with any further academic requirements as may be specified by the Board;
 - (b) obtain further specified practical training or experience or both;
 - (c) is not required to undertake any further academic or practical training.
- 4.4 A person who is admitted to practise in an overseas jurisdiction other than New Zealand may apply to the Board for a direction as to what academic and practical

requirements must be complied with in order to satisfy the requirements for admission.

- 4.5 An applicant for such a direction must lodge a statutory declaration:
- (a) stating the nature and details of the applicant's academic qualifications and practical qualifications and experience;
 - (b) providing evidence that the applicant has the academic and practical qualifications relied upon, annexing to the declaration original or authenticated documentary evidence that the applicant has the academic and practical qualifications relied upon;
 - (c) providing original or authenticated documentary evidence of the applicant's admission in the overseas jurisdiction;
 - (d) stating that the applicant is currently admitted and entitled to practise in the overseas jurisdiction, has not at any stage been struck off the roll of practitioners or otherwise suspended from practice and is not presently subject to disciplinary inquiry or proceedings;
 - (e) describing the nature, range, duration and character of the applicant's practice in the overseas jurisdiction; and
 - (f) stating whether the applicant has applied for such a direction or for admission in any other Australian jurisdiction and the result of any such application.
- 4.6 In dealing with any application under rule 4.4 the Board may decline to give a direction or direct that the applicant:
- (a) comply with any further academic requirements as may be specified by the Board;
 - (b) obtain further specified practical training or experience or both;
 - (c) is not required to undertake any further academic or practical training.
- 4.7 In formulating directions pursuant to rule 4.3 or 4.6, the Board shall endeavour to ensure that the applicant's qualifications, training and experience equate as closely as may be reasonably practicable with those of a local applicant.
- 4.8 Upon completion of the requirements of the Board given pursuant to rule 4.3 or 4.6, or where the board determines that no further academic or practical training is required, the applicant shall be deemed to have satisfied the academic and practical requirements for admission in the State.
- 4.9 A person who seeks a direction pursuant to this rule, must, when applying to the Board for directions, in addition to the matters referred to in rule 4.2 and 4.5, provide to the Board:
- (a) evidence such as a passport to verify his or her identity;
 - (b) independent evidence that the applicant is the person who has obtained the academic, practical and professional qualifications relied upon, such as a notarised certification from the tertiary

institution or professional body which has awarded or conferred the qualification which identifies the applicant by reference to the applicant's passport (or other document of identity) including the number of the passport and the country of issue;

- (c) where the applicant has been admitted to practise in an overseas jurisdiction, two statutory declarations (or the overseas equivalent of same) from legal practitioners in that jurisdiction who have known the applicant for at least two years and who themselves have been admitted in that jurisdiction for not less than five years, attesting to the good character and fitness to be admitted of the applicant;
- (d) where the applicant has not been admitted in an overseas jurisdiction, two statutory declarations (or the overseas equivalent of same) from persons of good repute who have known the applicant for at least five years, attesting to the applicant's good character;
- (e) documentation relating to any academic or practical qualification relied on by the applicant (including a syllabus or other document describing course details and coverage) issued by the body which has awarded that qualification;
- (f) the original or duly authenticated copy of the applicant's student record relating to the academic subjects and practical courses undertaken, the year in which each subject or course was taken and the grade achieved by the applicant in respect of each such subject or course.

4.10 If the first language of an applicant for admission in the State is not English, the applicant must satisfy the Board that the applicant has a sufficient knowledge of written and spoken English to practise in Australia.

4.11 The Board may, in relation to any application made by an overseas applicant, make such further enquiries as it thinks fit concerning the system of jurisprudence of the country in which the applicant has obtained his or her qualifications or in which the applicant has been admitted as a legal practitioner (as the case may be), the nature and adequacy of the applicant's training and experience in the practice of the law and the applicant's fitness to be admitted to practise in this State and the Board may act in respect of such matters on the written advice of the Attorney-General or the Solicitor-General for the State of South Australia, the Dean or Associate Dean of Law of the University of Adelaide or of the Flinders University of South Australia or of the University of South Australia or of the Victorian Council of Legal Education, any other admitting authority in Australia, or on the report of a committee appointed by the Board for that purpose.

5 ENTRY INTO ARTICLES OF CLERKSHIP

5.1 No person may enter into Articles of Clerkship unless:

- (a) he or she has fulfilled the academic requirements for admission; and
- (b) he or she has duly applied for, but has been unable to obtain, entry into the course leading to the grant of the GDLP or either of the courses referred to in rule 2.4(b) in the year for which he or she wishes to service in articles; and

- (c) he or she has given to the Board and to the Law Society at least twenty-one clear days' notice of his or her intention to enter into Articles. Such notice shall be in Form 1 in the schedule hereto.

5.2 Within one month after the execution of Articles of Clerkship the articulated clerk shall:

- (a) lodge the articles with the Board, together with a statutory declaration verifying the due execution thereof;
- (b) produce to the Board a certificate or certificates given by the appropriate authority showing that the clerk has fulfilled the academic requirements for admission;
- (c) serve on the Law Society copies of the statutory declaration and of every such certificate.

5.3 Within one month after the execution of any supplementary articles, or any assignment of articles, the clerk shall:

- (a) forward to the Board the supplementary articles, or the assignment, together with a statutory declaration verifying the due execution thereof; and
- (b) serve on the Law Society a copy of the said statutory declaration and of any decision or determination of the Board given or made pursuant to rule 25(2).

6. SERVICE UNDER ARTICLES

6.1 (a) No clerk shall be articulated to a practitioner unless the practitioner has been in practice in the State of South Australia for a continuous period of at least five years and is in practice as a principal at the commencement of the articles, unless the practitioner is the Crown Solicitor for the State, an AGS lawyer (as defined under the Judiciary Act 1903 of the Commonwealth) who is designated by the Australian Government Solicitor as a senior executive who may act as a principal, the South Australian Director of Public Prosecutions or the Commonwealth Director of Public Prosecutions.

- (b) Compliance with this rule may be dispensed with by the Board upon it being satisfied that it is proper in all the circumstances to do so.

6.2 No practitioner shall have more than three articulated clerks serving under articles at the same time, provided that, for the purposes of this rule only, an articulated clerk shall be deemed not to be serving under articles from and after the time at which he or she has served a period of articles adequate to entitle him or her (if he or she is in all other respects so entitled) to be admitted.

6.3 Notwithstanding the provisions of rule 6.2, the Crown Solicitor for the State, the Australian Government Solicitor, the South Australian Director of Public Prosecutions and the Commonwealth Director of Public Prosecutions may have any number of articulated clerks provided that each of them give written notification to the Board before 31 January in each year of the following:

- (a) the name of each articulated clerk in their employ at the time the notification is given; and
 - (b) in each case, the approximate date upon which the service in articles will be completed.
- 6.4 Clerks articulated to the Crown Solicitor for the State may, for the purposes of carrying out the employment required by rule 6.7, be employed in such duties of a legal nature within the Departments administered by or under the Attorney-General for the State as the Crown Solicitor for the State may direct.
- 6.5 For the purposes of this rule, "Crown Solicitor for the State" shall mean, if that office is vacant, the person for the time being or from time to time performing the duties of the Crown Solicitor for the State.
- 6.6 No practitioner shall take, or retain any articulated clerk after he or she has ceased to practise as a practitioner, or whilst he or she is employed by another practitioner.
- 6.7 Subject to these Rules, every articulated clerk shall during the whole term of his or her articles be actually and continuously employed in the State in the proper business, practice and employment of a practitioner under the personal supervision of:
 - (a) the practitioner practising in the State to whom he or she is articulated; or
 - (b) a partner of the practitioner; or
 - (c) a practitioner who for the time being is carrying on the business of the practitioner to whom the clerk is articulated.
- 6.8
 - (a) For the purposes of rule 6.7(b) or (c), the partner or practitioner must have been in practice in the State for a continuous period of five years and at the time of such supervision must be in practice as a principal.
 - (b) The Deputy and Assistant Crown Solicitors for the State shall for the purposes of this rule be deemed to be partners of the Crown Solicitor for the State and the Deputy Directors of Public Prosecutions shall for the purposes of this rule be deemed to be partners of the Directors of Public Prosecutions.
- 6.9 Absence on duty as a member of the naval, military, or air forces of the Commonwealth of Australia shall not terminate a clerk's articles, but any period of such service which exceeds sixteen days in any one year shall not be deemed service under articles unless the Board otherwise determines.
- 6.10 Where, before the expiration of the period for which a clerk is articulated, the practitioner to whom he or she is articulated ceases to practise as a practitioner or dies, or his or her articles are cancelled by mutual consent, the clerk may enter into supplementary articles to another practitioner for the remainder of the period of articles.
- 6.11
 - (a) The Board may terminate existing articles on application to it either by the principal or by the clerk if the Board is satisfied that the clerk has ceased substantially to derive any benefit under the articles, or that the clerk is not

receiving satisfactory general instruction, or that for any other sufficient reason it is advisable to terminate the articles.

- (b) The Board may thereupon allow the clerk to enter into supplementary articles to another practitioner for the residue of the period of service required by these rules or for such longer period as the Board may determine.
- (c) Except as provided by this rule articles of clerkship may not be terminated without the approval of the Board.

6.12 In the case of a person entering into articles after the commencement of these Rules with a practitioner practising outside a radius of fifty kilometres from the Adelaide GPO, up to one half of the period of articles prescribed by these Rules may be served with the Adelaide agent of such practitioner, and the employment of the clerk as a bona fide pupil of the Adelaide agent, or his or her partner (if any) for such period shall be deemed to be service under his or her articles of clerkship.

6.13 Service as an associate to a judge may be counted as service in articles to the extent permitted by the Board.

6.14 No articles of clerkship shall bind a clerk to service after he or she has been admitted as a practitioner.

7. BOARD OF EXAMINERS

7.1 All questions coming before the Board shall be decided by a majority of those present, and the Chairperson (and in the Chairperson's absence, the Deputy Chairperson) shall have a casting vote as well as a deliberative vote.

7.2 When the Board makes any report to the Court or to the Council any member may make a dissenting or individual report.

7.3 The Board may require any applicant for admission or a practising certificate, and a practitioner to whom the applicant was articulated, or under whose supervision he or she has served, or with whom he or she has served as a bona fide pupil, to answer in writing, or to attend before it and answer orally, such questions relevant to his or her application for admission or a practising certificate as the Board thinks fit.

7.4 (a) Except where any of these rules (apart from rule 10.1) confer upon the Council a power of exemption, the Board may exempt any person from the requirements of or from compliance or further compliance with any of these rules either entirely or in part and in any event subject to such conditions the Board may think it appropriate to impose.

(b) This rule is in addition to the power of the Council to delegate all or any of its powers to the Board.

(c) (i) A person who claims to have been qualified for admission pursuant to the repealed rules or any previous Admission Rules made pursuant to s 72(1) VI a of the Supreme Court Act 1935 (as amended) but has not been admitted to practise as a legal practitioner in the State, may apply to the Board for an exemption

from compliance with these rules or for a direction as to what further, if any, academic or practical requirements must be complied with in order to satisfy the requirements for admission.

- (ii) Any such exemption or direction may be given on such terms or conditions as the Board deems fit.

7.5 The Board may refer any question arising out of any application made to the Board in pursuance of these rules or under the Act or arising out of any inquiry made by the Board in pursuance of these rules to the Court or to the Council and the Court or the Council may either dispose of the matter or refer it back to the Board with such directions as it may think fit.

7.6 (a) In addition to any other inquiry which by law it may be authorised to undertake, the Board shall inquire into every application for admission and any objection thereto and report to the Court whether the applicant:

- (i) is eligible for admission;
- (ii) is a fit and proper person to be admitted;
- (iii) has complied with the Act, these Rules and the Supreme Court Admission Rules 1999 insofar as the applicant has been required to do so; and
- (iv) has complied with any other requirement as to which the Board has been requested to report by the Court.

(b) In the process of inquiry into the question of whether or not the applicant is a fit and proper person to be admitted, the Board of Examiners may make a request in writing to any teaching institution at which the applicant has pursued any course of study as to the practical or academic requirements for admission for a statement in writing as to whether or not the applicant has to the knowledge of the institution during the time when the applicant was enrolled for any such course of study been guilty of any dishonest conduct, including plagiarism, or other conduct relevant to the determination of the question whether the applicant is a fit and proper person to be admitted as a practitioner.

(c) Subject to rule 13(11) of the Supreme Court Admission Rules 1999, where the Board enquires into an application for readmission it shall, in addition to the matters referred to in sub-rule (1) hereof, report to the Court as to the fitness and capacity of the applicant to act as a practitioner in all business and matters usually transacted by or entrusted to practitioners.

(d) Where the circumstances so require the report of the Board shall be prefaced by or have attached thereto a statement of the Board's findings in relation to the facts of the case.

8 APPLICATION FOR INTIMATION AS TO ELIGIBILITY

8.1 (a) Any person may at any time apply to the Board for an intimation as to whether or not he or she would, in the opinion of the Board, be ineligible on grounds relating to his or her character or fitness or both to be admitted as a practitioner.

- (b) The Board may require any person applying under this Rule to attend before it and to furnish such evidence of his or her good character and fitness as it thinks fit.
- (c) The Board may in its discretion give such intimation as to the eligibility of the applicant as it thinks fit.

8.2 Where, on an application for admission, the applicant relies upon any intimation given by the Board of Examiners pursuant to this rule or by the Board of Examiners constituted pursuant to any rules of the Supreme Court relating to the admission of practitioners, the Board shall give effect to the intimation when preparing its report to the Court in respect of the application for admission except where the Board is satisfied that:

- (a) the intimation was obtained by fraud;
- (b) the intimation was obtained in circumstances where the applicant, whether deliberately or otherwise, failed to disclose to the Board facts material to the application for an intimation; or
- (c) the conduct of the applicant since the intimation was given requires a reconsideration by the Board as to whether or not the applicant is ineligible for admission by reason of his or her character or fitness to be admitted.

9 RENEWAL OF PRACTISING CERTIFICATES

9.1 This Rule:

- (a) does not apply to practitioners to whom Rule 3 applies;
- (b) applies to:
 - (i) a practitioner who applies for a practising certificate for the first time in this State more than three years after the practitioner was admitted in this State; and
 - (ii) a practitioner whose practising certificate has expired and has not been renewed for a period of three or more years from the date of expiry.

9.2 A practitioner who applies under this Rule for the issue or renewal of a practising certificate must satisfy the Board that he or she remains a fit and proper person to undertake the work of a legal practitioner.

9.3 An application pursuant to this Rule must be by way of a statutory declaration lodged with the Board of Examiners setting out the evidence upon which the practitioner relies and exhibiting thereto any documentary evidence relied upon by the practitioner.

9.4 On any application made pursuant to this Rule the Board may:

- (a) direct that a practising certificate be issued;

- (b) direct that no practising certificate be issued to the applicant or that no certificate be issued until further direction or until the happening of specified events;
- (c) direct that the practitioner:
 - (i) undertake further specified training or acquire further experience or both;
 - (ii) provide further information or take further steps in relation to his or her fitness to practise.
- (d) direct that a practising certificate be issued or renewed subject to conditions which the Board considers appropriate while the practitioner complies with any directions given pursuant to Rule 9.4(c).

9.5 Subject to Rule 9.4(d) where the Board has given directions to a practitioner, the practitioner must satisfy the Board that he or she has adequately complied with those directions before the practising certificate may be issued or renewed.

9.6 The authority responsible for the renewal or issue of the practising certificate shall act upon the certificate of the Board in relation to the issue of a practising certificate to a practitioner to whom this Rule applies.

10. MISCELLANEOUS AND EXEMPTIONS

10.1 The Council may exempt any person from the requirements of or from compliance or further compliance with any of these rules either entirely or in part and in any event subject to such conditions as the Council may think fit to impose.

10.2 For any purpose relating to the exercise of its powers under these rules, the Council may:

- (a) seek a report from the Board;
- (b) appoint an ad hoc advisory committee which may comprise or include persons who are not members of the Council or of the Board, to report to the Council;
- (c) either in a particular case or generally, have regard to and give such weight as it thinks fit to any approval, exemption, condition or decision given, allowed, imposed or made by any admitting authority or other statutory or regulatory body whose activities relate to legal practitioners in any other State or Territory of Australia.

10.3 The Law Society shall be entitled to be represented by a solicitor or counsel before the Council or the Board on any inquiry, or on any application.

10.4 The Council or the Board may request the Law Society to appoint a practitioner to investigate any matter arising on any inquiry or application coming before it, or to assist the Council or the Board on any such inquiry or application.

**APPENDIX A
SYNOPSIS OF AREAS OF KNOWLEDGE**

Appendix A sets out detailed descriptions of the areas of knowledge referred to in rule 2.1 which have been prepared for the guidance and assistance of admitting authorities.

Although the topics below are grouped for convenience under the headings of particular areas of knowledge, there is no implication that a topic needs to be taught in a subject covering the area of knowledge in the heading rather than in another suitable subject.

CRIMINAL LAW AND PROCEDURE

1. The definition of crime.
2. Elements of crime.
3. Aims of the criminal law.
4. Homicide and defences.
5. Non-fatal offences against the person and defences.
6. Offences against property.
7. General doctrines.
8. Selected topics chosen from:
 - attempts
 - participation in crime
 - drunkenness
 - mistake
 - strict responsibility.
9. Elements of criminal procedure. Selected topics chosen from:
 - classification of offences
 - process to compel appearance
 - bail
 - preliminary examination
 - trial of indictable offences.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should provide knowledge of the general doctrines of the criminal law and in particular examination of both offences against the person and against property. Selective treatment should also be given to various defences and to elements of criminal procedure.

TORTS

1. Negligence, including defences.

2. A representative range of torts (other than negligence) and their defences.
3. Damages.
4. Concurrent liability.
5. Compensation schemes.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The potential compass of this areas is so large that considerable variation might be anticipated. At the very least, there should be a study of negligence and of a representative range of torts, with some consideration of defences and damages, and of alternative methods of providing compensation for accidental injury. Examples of these topics are: concurrent liability, defamation, economic torts, nuisance, breach of statutory duty and compensation scheme.

CONTRACTS

1. Formation, including capacity, formalities, privity and consideration.
2. Content and construction of contract.
3. Vitiating factors.
4. Discharge.
5. Remedies.
6. Assignment.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

Some variation may be expected in the breadth and detail of the topics. In general, however, knowledge of the formal requirements for concluding contracts, capacity, the content and interpretation of contracts, their performance and discharge, available remedies, together with an understanding of the broad theoretical basis of contract would be expected.

PROPERTY

1. Meaning and purposes of the concept of property.
2. Possession, seisin and title.
3. Nature and type (ie fragmentation) of proprietary interests.
4. Creation and enforceability of proprietary interests.
5. Legal and equitable remedies.
6. Statutory schemes of registration.

7. Acquisition and disposal of proprietary interests.
8. Concurrent ownership.
9. Proprietary interests in land owned by another.
10. Mortgages.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should provide knowledge of the nature and type of various proprietary interests in chattels and land, and their creation and relative enforceability at law and in equity. Statutory schemes or registration for both general law land and Torrens land should be included. A variety of other topics might be included eg fixtures, concurrent interests and more detailed treatment of such matters as sale of land, leases, mortgages, easements, restrictive covenants, etc.

EQUITY

1. (a) The nature of equity
 - (b) Equitable rights, titles and interests
 - (c) Equitable assignments
 - (d) Estoppel in equity
 - (e) Fiduciary obligations
 - (f) Unconscionable transactions
 - (g) Equitable remedies.
2. Trusts, with particular reference to the various types of trusts and the manner and form of their creation and variation. The duties, rights and powers of trustees should be included, as should the consequences of breach of trust and the remedies available to, and respective rights of, beneficiaries. (It is expected that about half the course will be devoted to trusts.)

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should cover the elements of trust law, equitable doctrines apart from those relating to trusts, and equitable remedies. The following aspects of trusts law should be dealt with: various kinds of trusts; the rights, duties, powers of trustees; the consequences of breach of trust. Apart from trusts, the following equitable doctrines might be covered, for example, fiduciary obligations, equitable assignments, unconscionability and confidential information. The remedies of specific performance, injunction, declaration and damages in equity should be included. (It is expected that about half the course will be devoted to trusts.)

COMPANY LAW

1. Corporate personality.
2. The incorporation process.
3. The corporate constitution.
4. Company contracts.
5. Administration of companies and management of the business of companies.
6. Duties and liabilities of directors and officers.
7. Share capital and membership.
8. Members' remedies.
9. Company credit and security arrangements.
10. Winding up of companies.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include an analysis of incorporation and its effects, management and control of a company, the various methods of financing - by the issue of shares and by debt, and the processes of winding up a company.

ADMINISTRATIVE LAW

1. Organisation and structure of the administration.
2. Administrative law theory.
3. Common law and statutory avenues of judicial review at Commonwealth and State level.
4. Grounds of judicial review.
5. Remedies.
6. Crown immunity.
7. Administrative Appeals Tribunal.
8. Statutory review.
9. Freedom of information.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should not only embrace traditional common law remedies concerning judicial review of administrative action, but should also cover the range of Commonwealth and State statutory regimes.

FEDERAL AND STATE CONSTITUTIONAL LAW

1. State constitutions and constitutional systems.
2. The Commonwealth Constitution and constitutional system.
3. The constitution and operation of the legislature, executive and judiciary.
4. The relationship between the different institutions of government and the separation of powers.
5. The relationship between the different levels of government.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include knowledge of the major principles of both the relevant State or Territory Constitution and the Commonwealth Constitution, including the relations between the different Commonwealth and State or Territory laws. A general knowledge of the scope of both State or Territory and Commonwealth Constitutions is required, although the topics will differ in the depth of treatment of specific heads of power, particularly in the Commonwealth sphere.

CIVIL PROCEDURE

1. Court adjudication under an adversary system.
2. The cost of litigation and the use of costs to control litigation.
3. Service of originating process - as foundation of jurisdiction, including service out of the relevant State or Territory and choice of forum.
4. Joinder of claims and parties, including group proceedings and the defence of prior adjudication as instances of the public interest in avoiding a multiplicity of proceedings and inconsistent verdicts.
5. Defining the questions for trial - pleadings, notices to admit and other devices.
6. Obtaining evidence - discovery of documents, interrogatories, subpoena and other devices.
7. Disposition without trial, including the compromise of litigation.
8. Extra judicial determination of issues arising in the course of litigation.
9. Judgement.
10. Appeal.
11. Enforcement.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should embrace the general study of rules of civil procedure relevant in the State or Territory. Rules concerning jurisdiction, the initiation and service of process, the definition of issues through pleadings and judgment and enforcement should all be included.

EVIDENCE

1. Introduction.
2. Competence and compellability.
3. Privilege.
4. The examination of witnesses.
5. Disposition and character.
6. Similar fact evidence.
7. The accused as a witness.
8. Burden and standard of proof.
9. Documentary evidence.
10. Opinion evidence and prior determination.
11. Hearsay:
 - the exclusionary rule
 - the common law and statutory exceptions.
12. Admissions and confessions in criminal cases.
13. Illegally obtained evidence and confirmation by subsequent fact.
14. Res gestae.
15. Corroboration.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include examination of both the sources and acceptability of evidence, including rules concerning the burden and standard of proof and technical rules concerning such matters as hearsay, admissions and confessions, illegally obtained evidence and res gestae.

ETHICS AND PROFESSIONAL RESPONSIBILITY

Professional and personal conduct in respect of a practitioner's duty:

- (a) to the law;
- (b) to the Courts;
- (c) to clients, including a basic knowledge of the principles relating to the holding of money on trust; and
- (d) to fellow practitioners.

OR

Topics of such breadth and depth as to satisfy the following guidelines:

The topics should include knowledge of the various pertinent rules concerning a practitioner's duty to the law, the Courts, clients and fellow practitioners, and a basic knowledge of the principles relating to the holding of money on trust.

APPENDIX B COMPETENCY STANDARDS FOR ENTRY LEVEL LAWYERS

PREFACE

The following Competency Standards for practical legal training for entry level lawyers have been jointly developed by the Australasian Professional Legal Education Council (APLEC) and the Law Admissions Consultative Committee.

They seek to describe the observable performance required of entry-level lawyers at the point of admission to practise, in a number of key areas. The Competency Standards have been drafted in the light of both:

- *National Competency Standards, Policy and Guidelines*, National Training Board, Canberra 1991; and
- Heywood, Gonczi and Hager, *A Guide to the Development of Competency Standards for Professions*, Department of Employment, Education and Training, Canberra 1992.

It is in the interests of clients and the public that entry-level lawyers should only be admitted to practise – and subsequently licensed and held out to the public as legal practitioners – if they have acquired threshold competence to practise by completing appropriate academic and practical training. Before they are admitted to practise they must have the knowledge, values, attitudes and skills required to practise law competently.

At the point of admission, each applicant will thus be expected to provide evidence that the applicant has achieved the requisite competence in the following Skills, Practice Areas and Values:

Skills	Practice Areas	Values
Lawyer's Skills Problem Solving Work Management and Business Skills Trust and Office Accounting	Civil Litigation Practice Commercial and Corporate Practice Property Law Practice One of: Administrative Law Practice Criminal Law Practice Family Law Practice And one of: Consumer Law Practice Employment and Industrial Relations Practice Planning & Environmental Law Practice Wills and Estates Practice	Ethics and Professional Responsibility

The relevant Competency Standards for each Skill, Practice Area and Value are set out from page 37 onwards.

The Law Admissions Consultative Committee considers that:

- (a) every applicant seeking admission to practise should provide evidence that the applicant has attained the requisite competence required by the Standards, whether the applicant has completed a PLT Course, Articles of Clerkship, a Bar Admission Course or a combination of more than one of them;
- (b) an applicant should generally have undertaken the relevant practical legal training and demonstrated attainment of the requisite competence either in the final year of a law degree or after completing that degree, or a combination of both of them;
- (c) at whatever stage an applicant undertakes practical legal training, that training should be provided at a level equivalent to post-graduate training. It should build on the knowledge and understanding of the law, the legal system and of legal practice which a graduate should have acquired by the end of an undergraduate law degree;
- (d) diversity in the ways in which practical legal training is given should be encouraged, provided that the quality of that training is not compromised and remains the paramount consideration;
- (e) the training requires both programmed training and workplace experience. It requires an allocation of tuition hours and resources to curriculum which are appropriate as an equivalent of:
 - a program of academic study at graduate diploma level which incorporates at least 90 hours of workplace training; or
 - 12 months (1800 work hours) of closely supervised full time indenture as an articled clerk incorporating at least 90 hours of programmed training; or
 - a non-award training course of at least 6 months (900 hours) in which at least 450 hours is programmed training and at least 90 hours is workplace experience.

“programmed training” means structured and supervised training activities, research and tasks with comprehensive assessment. When programmed training is delivered as distance training or in electronic form, it should be devised to require an input of time from an applicant of at least 450 hours.

“workplace experience” means supervised employment in a law or law related work environment or equivalent unpaid engagement in such an environment.

- (f) while the Competency Standards propose minimum requirements for entry-level lawyers, they are not intended to discourage either wider, or more detailed, Practical Legal Training;
- (g) the Competency Standards are designed, where possible, to allow:
 - (i) competence in one relevant area to be acquired in the course of acquiring competence in another relevant area; and
 - (ii) practical legal training to be given in flexible and innovative ways, where this is desirable.

It follows that an applicant need not acquire the requisite competence in any particular Skill, Practice Area or Value by undertaking training in any predetermined topic or area of practice;

- (h) an applicant's competence in each Practice Area should be assessed in a way which allows the applicant also to demonstrate competence in relevant Skills and Values, at the same time;
- (i) those who teach in PLT Courses or who supervise the work of potential applicants for admission while they acquire competence in the relevant Practice Areas, Skills and Values, should either have substantial recent experience practising law, or comparable relevant qualifications or experience;
- (j) any program of practical legal training should:
 - (i) introduce a potential applicant for admission to Legal Aid and Pro Bono systems and schemes; and
 - (ii) include practical experience in the use of current information technology;
- (k) any course providing components of practical legal training to potential applicants, including Articles of Clerkship, should have formal means of assessing whether, and certifying that, an applicant has achieved the requisite level of competence in each relevant skill, practice area or value;
- (l) each Admitting Authority should:
 - (i) require any course providing components of practical legal training to potential applicants (other than Articles of Clerkship) to be approved by it; and
 - (ii) monitor the provision of practical legal training (including Articles of Clerkship) to satisfy itself that the training is of an appropriate quality.

ADMINISTRATIVE LAW PRACTICE

Descriptor: An entry level lawyer who practises in administrative law should be able to obtain information for clients under freedom of information legislation and otherwise, seek review of administrative decisions, and represent parties before courts and administrative tribunals.

Element	Performance criteria
	The lawyer has competently:
1. Obtaining information	<ul style="list-style-type: none"> • identified whether freedom of information legislation applies to the situation. • identified the specific legislation under which the information may be obtained. • taken the steps required under that legislation. • identified and taken any other practical steps required to obtain the information.
2. Obtaining review of administrative	<ul style="list-style-type: none"> • concluded correctly that the decision may be reviewed. • identified and discussed with the client alternative means of

decisions

obtaining a review.

- completed all preparation required by law, good practice and the circumstances of the matter.
- represented the client effectively at any mediation, hearing or other review forum, where this is appropriate and permitted.

3. Representing a client

- identified all alternative means of obtaining redress and discussed them with the client.
- completed all preparation required by law, good practice and the circumstances of the matter.
- represented the client effectively at any mediation, hearing or other forum.

Explanatory Note

This competency standard applies to State and Federal administrative law and practice and proceedings before both State and Federal courts and tribunals.

For an entry level lawyer administrative law practice may be either an area of specialised practice or an ancillary part of general practice.

Preparing to represent a client in a court or tribunal may include drafting written submissions.

CIVIL LITIGATION PRACTICE

Descriptor: An entry level lawyer should be able to conduct civil litigation in first instance matters in courts of general jurisdiction, in a timely and cost-effective manner.

Element**Performance criteria**

The lawyer has competently:

1. Assessing the merits of a case and identifying the dispute resolution alternatives

- assessed the strengths and weaknesses of both the client's and opponent's cases.
- identified the facts and evidence required to support the client's case.
- identified all means of resolving the case, having regard to the client's circumstances.
- advised the client of relevant rights and remedies in a way which the client can easily understand.
- where possible, confirmed in writing any instructions given by the client in response to initial advice.
- identified and complied with the relevant limitation period.

2. Initiating and responding to claims

- identified an appropriate claim or defence.
- identified a court of appropriate jurisdiction.
- identified the elements of the claim or defence, according to law.
- followed procedures for bringing the claim or making the defence in accordance with the court's rules and in a timely manner.
- drafted all necessary documents in accordance with those procedures.

3. Taking and

- identified any need for interlocutory steps or default

- | | |
|---|--|
| responding to interlocutory and default proceedings | <ul style="list-style-type: none"> proceedings, according to the court's rules. • followed procedures for taking those steps or proceedings in accordance with the court's rules and in a timely manner. • drafted all necessary documents in accordance with those procedures and rules. |
| 4. Gathering and presenting evidence | <ul style="list-style-type: none"> • identified issues likely to arise at the hearing. • identified evidence needed to prove the client's case or disprove the opponent's case, according to the rules of evidence. • gathered the necessary evidence. • presented that evidence according to law and the court's rules. |
| 5. Negotiating settlements | <ul style="list-style-type: none"> • conducted settlement negotiations in accordance with specified principles. • identified any revenue and statutory refund implications. • properly documented any settlement reached. |
| 6. Taking action to enforce orders and settlement agreements | <ul style="list-style-type: none"> • identified procedures for enforcing the order or settlement according to law and the court's rules. • followed those procedures in a timely manner. |

Explanatory Note

This competency standard applies to first instance civil litigation in a local lower and a local higher court of an Australian State or Territory, having general jurisdiction, and in the Federal Court.

Means by which a dispute might be resolved include, but are not limited to:

- negotiation;
- mediation;
- arbitration;
- litigation;
- expert appraisal

Means by which evidence might be gathered include:

- statements from witness;
- notices to admit;
- discovery;
- subpoena;
- expert reports;
- certified official records, banker's books etc.

Means by which evidence might be presented include:

- orally on oath;
- affidavits;
- video or telephone link.

Means of enforcement include:

- execution process including attachment of debts;
- taxation or assessment of costs;
- oral examination.

COMMERCIAL AND CORPORATE PRACTICE

Descriptor: An entry level lawyer should be able to conduct commercial transactions such as the sale or purchase of a small business. The lawyer should be able to set up standard business structures using entities such as companies, trusts and partnerships; provide basic advice on finance and securities and the obligations of companies and their officers; and appreciate the type of advice needed to assess the revenue implications of standard commercial transactions.

Element	Performance criteria
	The lawyer has competently:
1. Conducting commercial transactions	<ul style="list-style-type: none"> • identified the nature of the transaction properly. • undertaken sufficient searches and inquiries to investigate any relevant issues of title to real or personal property. • drafted documents, had them executed, and (if necessary) certified, stamped and registered them, according to law and good practice. • obtained or given any necessary consents to, or notifications of, the transaction required by law.
2. Setting up commercial structures	<ul style="list-style-type: none"> • selected a structure that will achieve the client's objectives. • drafted all documents required to set up the structure (including establishing any discrete entities that will form part of the structure) had them executed and (if necessary) certified, stamped and registered them, according to law and good practice. • informed the client of any continuing obligations in relation to the structure, and where the structure involves a corporation, the continuing obligations of the company and its officers.
3. Dealing with loans and securities	<ul style="list-style-type: none"> • identified the various appropriate types of financial arrangements and securities available to the borrower and lender. • informed the borrower and lender of their immediate, continuing, and potential liabilities under any proposed financing and security arrangements. • drafted loan or security documents which reflect the agreement between lender and borrower. • had the loan or security documents executed and (if necessary) stamped and registered them according to law.
4. Advising on revenue law and practice	<ul style="list-style-type: none"> • identified the possible general revenue implications of the client's proposed commercial venture or arrangement. • referred the client to experts for more comprehensive or detailed advice, where appropriate.

Explanatory Note

This competency standard applies to commercial and corporate practice. It includes:

- some common commercial transactions, such as the sale or purchase of a small business;
- setting up standard business structures and entities, including companies;

- advising on the legal obligations of corporations and their officers;
- advising on due diligence investigations;
- identifying in a general way the possible revenue implications of standard commercial dealings and structures;
- drafting standard loan agreements and securities.

Business structures include:

- trusts;
- private companies;
- partnerships;
- joint ventures;
- franchise arrangements

Securities include:

- bills of sale;
- chattel leases;
- loans agreements;
- guarantees, including guarantees from spouses.

Revenue implications include:

- stamp duties;
- income tax;
- capital gains tax;
- GST;
- fringe benefits tax;
- land and property taxes

CONSUMER LAW PRACTICE

Descriptor: An entry level lawyer who practises in consumer law should be able to advise clients on the procedures and remedies available in relation to consumer complaints and to represent the client in any related negotiations or proceedings.

Element	Performance criteria
	The lawyer has competently:
1. Obtaining information	<ul style="list-style-type: none"> • identified the situation as one to which consumer protection legislation applies. • identified the relevant legislation and any applicable case law. • identified any possible common law remedies.
2. Drafting documents	<ul style="list-style-type: none"> • drafted any documents required, in accordance with the client's instructions and the relevant legislation.
3. Initiating and responding to claims	<ul style="list-style-type: none"> • identified the appropriate forum for initiating or responding to a claim. • initiated a claim or taken action to oppose a claim in accordance with the rules and procedures of the relevant court or tribunal, in a timely manner. • obtained all necessary evidence and drafted all necessary documents in accordance with those rules.
4. Representing the	<ul style="list-style-type: none"> • identified all possible means of resolving the dispute to the

- client** satisfaction of the client and discussed them with the client.
- completed all necessary preparation in accordance with the law, good practice and the circumstances of the matter.
 - represented the client effectively at any negotiation, mediation, hearing or other forum.
- 5. Taking action to implement outcomes**
- documented any order or settlement properly and explained it to the client in a way which the client can easily understand.
 - identified any procedures necessary to enforce the order or settlement and carried them out in a timely manner.

Explanatory Note

This competency standard applies to the practice of consumer law. It includes both State and Federal consumer protection legislation and codes.

Consumer protection legislation includes State and Federal legislation and codes dealing with:

- trade practices;
- misleading and deceptive conduct;
- motor car traders;
- domestic building contracts;
- consumer credit;
- residential tenancies

A consumer protection dispute includes disputes relating to:

- trade practices;
- misleading and deceptive conduct;
- motor car traders;
- domestic building contracts;
- consumer credit;
- guarantees;
- residential tenancies

A court or tribunal includes:;

- Federal Courts;
- State Courts;
- statutory tribunals;
- industry complaint panels;
- industry Ombudsmen

CRIMINAL LAW PRACTICE

Descriptor: An entry level lawyer who practises in criminal law should be able to advise clients before arrest, seek bail, make pleas, participate in minor contested hearings and assist in preparing cases for trial.

Element	Performance criteria
	The lawyer has competently:
1. Providing advice	<ul style="list-style-type: none"> • identified the client's legal rights and legal powers of the police or other prosecutors or investigators in the situation. • informed the client of those rights and powers in a way which the client can easily understand. • identified the legal elements of any offence with which the client is charged. • where possible, confirmed in writing any instructions given by the client in response to initial advice. • implemented the client's instructions when it is appropriate in the circumstances to do so.
2. Applying for bail	<ul style="list-style-type: none"> • identified the client's options and communicated them to the client in a way the client can easily understand. • helped the client to make an informed decision about which option to select. • made an application for bail or taken other action effectively in the circumstances. • fully advised the client of any bail conditions.
3. Making pleas	<ul style="list-style-type: none"> • identified the client's options and communicated them to the client in a way the client can easily understand. • identified and gathered all material useful to the plea according to law and good practice. • presented the plea in an effective and persuasive manner, having regard to the circumstances of the case. • advised the client fully of the outcome in a way the client can easily understand.
4. Representing a client in minor matters	<ul style="list-style-type: none"> • completed all preparation required by law, good practice and the circumstances of the case. • represented the client effectively at a contested and uncontested hearing.
5. Assisting to prepare cases for trial	<ul style="list-style-type: none"> • identified and gathered the evidence needed to support the client's case. • identified and briefed appropriate experts (including counsel) having regard to good practice and the requirements of the case.

Explanatory Note

This competency standard applies to criminal law practice. It includes:

- advising clients before and after arrest;
- making a simple bail application on behalf of an accused person;
- making a plea in mitigation of penalty in a simple matter;
- some aspect of preparing a matter for hearing, such as briefing counsel;
- participating in a minor contested hearing.

Criminal matters include:

- traffic offences;
- domestic violence and apprehended violence orders;

- drink driving;
- drug offences.

EMPLOYMENT AND INDUSTRIAL RELATIONS PRACTICE

Descriptor: An entry level lawyer who practices in the area of employment and industrial relations should be able to advise clients on the relevant law and procedures, represent clients in negotiations and initiate and respond to applications in relevant State and Federal courts and tribunals.

Element	Performance criteria
	The lawyer has competently:
1. Assessing the merits of the dispute and identify the dispute resolution alternatives	<ul style="list-style-type: none"> • identified the relevant facts. • assessed the strengths and weaknesses of the dispute according to the relevant law. • identified all means of resolving the dispute, having regard to the client's circumstances.
2. Advising client on procedures	<ul style="list-style-type: none"> • advised the client of means to avoid a dispute, where appropriate. • advised the client of available steps to strengthen the client's position.
3. Commencing negotiations	<ul style="list-style-type: none"> • explored all opportunities for a negotiated settlement, subject to the client's instructions. • represented the client effectively at any negotiations.
4. Initiating and responding to proceedings	<ul style="list-style-type: none"> • identified the appropriate jurisdiction. • initiated or opposed a claim in accordance with the rules of the relevant court or tribunal, in a timely manner. • obtained all necessary evidence and drafted all necessary documents in accordance with those rules.
5. Representing the client	<ul style="list-style-type: none"> • completed all preparation required by law, good practice and the circumstances. • represented the client effectively at any mediation, hearing or other forum.
6. Taking action to implement outcomes	<ul style="list-style-type: none"> • properly documented any order or settlement and explained it to the client in a way which the client can understand. • identified and carried out any procedures required to enforce the order or settlement.

Explanatory Note

This competency standard applies to the practice of employment and industrial relations law at both State and Federal levels.

A dispute may involve:

- award negotiations;
- an industrial dispute relating to an individual employee or to a workplace or industry;
- an equal employment opportunity or anti-discrimination claim;

- a claim for unfair dismissal.

The means by which a dispute might be resolved include, but are not limited to:

- negotiation;
- mediation;
- conciliation;
- arbitration;
- litigation.

Steps available to a client to avoid a dispute or to strengthen the client's position include:

- altering internal employment practices and procedures;
- drafting and revising employment contracts;
- entering or revising enterprise bargaining agreements;
- altering individual employment contracts;
- taking disciplinary proceedings;
- allowing industrial representation.

ETHICS AND PROFESSIONAL RESPONSIBILITY

Descriptor: An entry level lawyer should act ethically and demonstrate professional responsibility and professional courtesy in all dealings with clients, the courts, the community and other lawyers.

Element	Performance criteria
	The lawyer has competently;
1. Acting ethically	<ul style="list-style-type: none"> • identified any relevant ethical dimension of a particular situation. • taken action which complies with professional ethical standards in that situation.
2. Discharging the legal duties and obligations of legal practitioners	<ul style="list-style-type: none"> • identified any duty or obligation imposed on the lawyer by law in a particular situation. • discharged that duty or obligation according to law and good practice.
3. Complying with professional conduct rules	<ul style="list-style-type: none"> • identified any applicable rules of professional conduct. • taken action which complies with those rules.
4. Complying with fiduciary duties	<ul style="list-style-type: none"> • recognised and complied with any fiduciary duty, according to law and good practice.
5. Avoiding conflicts of interest	<ul style="list-style-type: none"> • identified any potential or actual conflict, as soon as is reasonable in the circumstances. • taken effective action to avoid a potential conflict or, where a conflict has already arisen, dealt with it in accordance with law and good practice. • taken appropriate action, where applicable, to prevent such a conflict arising in the future.
6. Acting courteously	<ul style="list-style-type: none"> • demonstrated professional courtesy in all dealings with others.

- 7. Complying with rules relating to the charging of fees**
- identified any rules applying to charging professional fees.
 - complied with those rules, where they are relevant.
 - maintained records and accounts in accordance with law and good practice.
- 8. Reflecting on wider issues**
- reflected on that lawyer's professional performance in particular situations.
 - brought to the attention of an employer or professional association any matters that require consideration or clarification.
 - recognised the importance of pro bono contributions to legal practice.
 - demonstrated an awareness that mismanagement of living and work practices can impair the lawyer's skills, productivity, health and family life.

Explanatory Note

This competency standard applies to:

- ethics;
- statutes and general law relating to the duties and obligations of legal practitioners;
- written and unwritten rules of professional conduct;
- written and unwritten rules of professional courtesy.

The duties and obligations imposed by law on legal practitioners include duties:

- of confidentiality;
- to act competently and to maintain competence;
- to act honestly;
- not to mislead the court;
- not to pervert the course of justice or the due administration of justice.

Conflicts of interest commonly arise between:

- joint venture partners;
- directors and shareholders of a company;
- trustees and beneficiaries in a family trust;
- parties to any transaction where their interests potentially differ.

FAMILY LAW PRACTICE

Descriptor: An entry level lawyer who practises in family law should be able to apply for dissolution of marriage, and advise and take action in relation to parenting matters property settlements, spouse maintenance and child support problems.

Element

Performance criteria

The lawyer has competently:

- 1. Applying for dissolution of marriage**
- obtained instructions reflecting the client's informed wishes.
 - prepared an application complying with the relevant court rules.
 - filed and served the application in accordance with those rules.
 - proved service in accordance with those rules.
 - presented the client's application to the court effectively.

- 2. Acting in relation to ancillary matters**
- informed the client of all options, having regard to the circumstances of the case, in a way which the client can easily understand.
 - fully prepared the client's case having regard to the client's circumstances, the dispute resolution process the client has decided to pursue and good practice.
 - pursued the case in accordance with good practice for the chosen dispute resolution process.
 - identified and explained to the client the revenue implications of any proposed settlement.
 - documented and acted upon any results of the chosen dispute resolution process, as required by law and good practice.

Explanatory Note

This competency standard applies to dissolution of marriage and ancillary matters arising from the breakdown of marriages or other domestic relationships. It includes:

- applying for dissolution of marriage; and
- managing an ancillary matter in a family court up to the first directions hearing.

Ancillary matters include:

- parenting matters;
- property settlements;
- spouse maintenance;
- child support;
- domestic violence orders;
- injunctions and sole use orders;
- de facto proceedings.

Acting includes:

- participating in primary dispute resolution processes;
- informal negotiation;
- initiating or responding to court proceedings for urgent, interim or final relief.

LAWYER'S SKILLS

Descriptor: An entry level lawyer should be able to demonstrate oral communication skills, legal interviewing skills, advocacy skills, negotiation and dispute resolution skills, and letter writing and legal drafting skills.

Element

Performance criteria

The lawyer has competently:

- | | |
|-------------------------------------|--|
| 1. Communicating effectively | <ul style="list-style-type: none"> • identified the purpose of a proposed communication, the most effective way of making it, an appropriate communication strategy, and the content of the proposed communication. • presented thoughts, advice, and submissions in a logical, clear, succinct and persuasive manner, having regard to the circumstances and the person or forum to whom the communication is made. • identified and appropriately dealt with verbal, non-verbal and cross-cultural aspects of the proposed communication. • taken any follow-up action in accordance with good practice. |
| 2. Interviewing | <ul style="list-style-type: none"> • prepared for the interview properly, having regard to relevant |

- clients** information available before the interview and the circumstances.
- conducted the interview using communication techniques appropriate to both the client and the context.
 - ensured that the client and lawyer have both obtained all the information which they wanted from the interview in a timely, effective and efficient way, having regard to the circumstances.
 - ensured that the lawyer and client left the interview with a common understanding of the lawyer's instructions (if any) and any future action that the lawyer or client is to take.
 - made a record of the interview that satisfies the requirements of law and good practice.
 - taken any follow-up action in a timely manner.
- 3. Writing letters**
- identified the need for, and purpose of, the letter.
 - written the letter in simple, straightforward English which conveys its purpose clearly and can be easily understood by the person to whom it is sent.
- 4. Drafting other documents**
- identified the need for, and purpose, of the document.
 - devised an effective form and structure for the document having regard to the parties, the circumstances, good practice, principles of writing simple, straightforward English and the relevant law.
 - drafted the document effectively having regard to the parties, the circumstances, good practice, principles of writing simple, straightforward English, and the relevant law.
 - considered whether the document should be settled by counsel.
 - taken every action required to make the document effective and enforceable in a timely manner and according to law (such as execution by the parties, stamping, delivery and registration).
- 5. Negotiating settlements and agreements**
- prepared the client's case properly having regard to the circumstances and good practice.
 - identified the strategy and tactics to be used in negotiations and discussed them with and obtained approval from the client.
 - carried out the negotiations effectively having regard to the strategy and tactics adopted, the circumstances of the case and good practice.
 - documented the negotiation and any resolution as required by law or good practice and explained it to the client in a way the client can easily understand.
- 6. Facilitating early resolution of disputes**
- identified the advantages and disadvantages of available dispute resolution options and explained them to the client.
 - performed in the lawyer's role in the dispute resolution process effectively, having regard to the circumstances.
 - documented any resolution as required by law or good practice and explained it to the client in a way the client can easily understand.
- 7. Representing a client in court**
- observed the etiquette and procedures of the forum.
 - organised and presented in an effective, strategic way:

- factual material;
- analysis of relevant legal issues; and
- relevant decided cases.
- presented and tested evidence in accordance with the law and good practice.
- made submissions effectively and coherently in accordance with law and good practice.

Explanatory Note

This competency standard applies to “composite” skills which require a lawyer to synthesise several generic skills and apply them in a specific legal context. Lawyers must be able to exercise such skills effectively.

Representation refers to advocacy on behalf of a client in a court, tribunal or other forum. It includes:

- an aspect of preliminary or pre-trial civil or criminal proceedings;
- an aspect of first instance trial advocacy in a simple matter;
- leading evidence-in-chief, cross-examination, re-examination and making submissions.

Dispute resolution options include:

- negotiation;
- mediation;
- arbitration;
- litigation;
- expert appraisal.

PLANNING AND ENVIRONMENTAL LAW PRACTICE

Descriptor: An entry level lawyer who practises in planning and environmental law should be able to advise clients on the relevant law, generally assist them in the planning process; initiate or oppose applications in, and obtain and present relevant evidence before appropriate courts or tribunals; and represent clients in various forums.

Element	Performance criteria
	The lawyer has competently:
1. Assessing the merits of the matter and advising the client	<ul style="list-style-type: none"> • obtained full instructions from the client. • analysed the facts in accordance with the relevant law. • obtained and clarified any relevant technical information. • advised the client of any rights and obligations of the client and potential penalties if obligations are not observed. • identified all options and developed a plan of action in accordance with the client's instructions. • examined the commercial, political and public relations implications of any proposed action and explained them to the client.
2. Preparing applications	<ul style="list-style-type: none"> • identified and analysed the relevant provisions of the relevant planning scheme. • prepared an application for development approval and submitted it to the relevant authority. • obtained any necessary plans. • identified potential grounds of objection.
3. Initiating and responding to claims	<ul style="list-style-type: none"> • identified the appropriate forum for initiating or responding to a claim. • initiated or opposed a claim in accordance with the rules of the relevant court or tribunal, in a timely manner. • obtained all necessary evidence and drafted all necessary documents in accordance with those rules.
4. Representing the client	<ul style="list-style-type: none"> • identified all available means of resolving the matter to the satisfaction of the client and discussed them with the client. • completed all preparation required by law, good practice and the circumstances. • represented the client effectively in any negotiation, mediation, hearing or other forum.
5. Implementing outcomes	<ul style="list-style-type: none"> • properly documented any order or settlement and explained it to the client in a way which the client can easily understand. • identified and carried out any procedures to enforce the order or settlement in a timely manner.

Explanatory Note

This competency standard applies to the practice of planning and environmental law under both State and Federal legislation.

The client's rights and obligations include rights and obligations under statute and at common law.

A claim or dispute may include:

- an application for or exemption from a permit, licence, approval or other authority;
- an objection to or appeal or application for review in relation to such an application;
- a prosecution for breach of relevant legislation;
- civil action relating to either or both of planning and environmental issues.

Reference to a court or tribunal includes a body exercising statutory powers.

Preparation for providing representation in a court or tribunal may include:

- drafting written submissions;
- briefing counsel.

PROBLEM SOLVING

Descriptor: An entry level lawyer should be able to investigate and analyse facts and law, provide legal advice and solve legal problems.

Element	Performance criteria
	The lawyer has competently:
1. Analysing facts and identifying issues	<ul style="list-style-type: none"> • identified and collected all relevant facts as far as is practicable. • analysed the facts to identify any existing or potential legal and other issues. • distinguished facts that might be used to prove a claim from other facts, if the matter so requires.
2. Analysing law	<ul style="list-style-type: none"> • identified any questions of law raised by the matter. • researched those questions of law properly, having regard to the circumstances. • identified and interpreted any relevant statutory provisions and applied them appropriately to the facts.
3. Providing legal advice	<ul style="list-style-type: none"> • applied the law to the facts of the matter in an appropriate and defensible way. • given the client advice in a way which the client can easily understand. • kept up with any developments that might affect the accuracy of previous advice and told the client about the effect of those developments.
4. Generating solutions and strategies	<ul style="list-style-type: none"> • identified the problem and the client's goals as fully as is practicable. • investigated the facts and legal and other issues as fully as is practicable. • developed creative options and strategies to meet the client's objectives. • identified the advantages and disadvantages of pursuing each option or strategy including costs and time factors. • assisted the client to choose between those options in a way consistent with good practice. • developed a plan to implement the client's preferred option. • acted to resolve the problem in accordance with the client's instructions and the lawyer's plan of action. • remained open to new information and ideas and updated advice to the client where necessary.

Explanatory Note

This competency standard applies to:

- analysing facts;
- analysing legal and practical issues;
- analysing law;
- interpreting statutes;
- giving advice;
- solving problems in the context of legal practice.

Analysing law includes researching legal issues using:

- law libraries;
- on-line searches;
- electronic data bases;
- legal citators and digests.

It also includes applying principles of precedent.

Other issues include:

- risk management;
- public relations;
- financial implications.

PROPERTY LAW PRACTICE

Descriptor: An entry level lawyer should be able to convey, lease and mortgage real property. The lawyer should also be able to provide general advice on standard matters arising under legislation relating to land use in that State or Territory.

Element

Performance criteria

The lawyer has competently:

- | | |
|------------------------------|--|
| 1. Transferring title | <ul style="list-style-type: none"> • identified the nature of the interest being dealt with properly, having regard to the applicable title system. • prepared, commented on and advised on an appropriate contract of sale or other type of agreement and had it executed according to law and good practice. • undertaken sufficient searches and inquiries to investigate title, any issues about land use and responsibility for outgoings. • drafted an appropriate instrument of transfer or conveyance and had it executed and (if necessary) stamped and registered, according to law. • obtained or given any consents to, or notifications of, the transfer or conveyance according to law. |
| 2. Creating leases | <ul style="list-style-type: none"> • made and obtained all searches and consents required by law and good practice. • drafted, commented on and advised on a lease in a form allowed by law, reflecting the agreement between lessor and lessee and protecting their respective interests. • arranged for the lease to be executed and (if necessary) stamped and registered, according to law. |

- | | |
|---|--|
| 3. Creating and releasing securities | <ul style="list-style-type: none"> • made and obtained all searches and consents required by law and good practice. • drafted, commented on and advised on an effective instrument to create or release the security, reflecting the agreement between the grantor and grantee and protecting their respective interests. • arranged for the instrument to be executed and (if necessary) stamped and registered, as required by law. |
| 4. Advising on land use | <ul style="list-style-type: none"> • identified any legislative scheme regulating the relevant use. • advised the client generally about processes to be followed to obtain permission for, or to object to the use, as the case requires. |
| 5. Advising on revenue implications | <ul style="list-style-type: none"> • identified the revenue implications of any transaction and advised the client accordingly. |

Explanatory Note

This competency standard applies to dealings with interests in real and leasehold property, land use and securities. It must include:

- contracts for sale of land including special conditions;
- transferring title (or equivalent interest under the scheme of land title that exists in the particular State or Territory);
- creating standard commercial leases;
- creating standard residential tenancies or leases;
- creating and releasing of mortgages;
- some aspect of land use.

The competency standard includes dealings under the main system of land title operating in the jurisdiction in which the lawyer practises. For example, in Queensland it would include dealings in respect of freehold title under the *Land Title Act 1994*.

Aspects of land use might involve issues arising out of:

- town planning schemes;
- local government by-laws;
- environment and heritage legislation;
- revenue and tax legislation.

This competency standard is limited to:

- the main system of land title operating in a State or Territory;
- transactions which an entry level lawyer would be expected to perform.

TRUST AND OFFICE ACCOUNTING

Descriptor: An entry level lawyer should have a sound general knowledge of the significance of, and the principles governing, trust and general accounting in legal practice and sufficient knowledge, skills and values to maintain trust and general account records according to law and good practice, to the extent usually permitted and expected of an employed solicitor.

Element	Performance criteria
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The lawyer has competently:

- 1. Receiving money**
 - dealt with money received from or on behalf of a client, as required by law and good practice.
 - where the law and good practice requires money to be deposited in a trust account, controlled or general account, recorded the deposit as required by law and good practice.
 - issued any receipt required by law and good practice.
- 2. Making outlays**
 - made any outlay from the correct account, according to law and good practice.
 - recorded the outlay as required by law and good practice.
- 3. Rendering costs**
 - calculated the costs in accordance with law, good practice and any agreement between the lawyer and client.
 - added to the bill all outlays made by the firm for which the client is responsible.
 - accounted to the client for any money received from the client on account of costs and outlays, as required by law and good practice.
 - drafted the bill and delivered it in accordance with law and good practice.
- 4. Maintaining Trust account**
 - maintained any trust account in accordance with specific statutory requirements, including any requirements relating to common fund deposits and auditing.

Explanatory Note

This competency standard applies to trust and general accounting . It requires a general knowledge of bookkeeping and knowledge of the solicitors' trust account law and practice and auditing requirements in the lawyer's jurisdiction.

WILLS AND ESTATES PRACTICE

Descriptor: An entry level lawyer who practises in wills and estates should be able to draft wills, administer deceased estates and take action to solve problems about wills and estates.

Element	Performance criteria
	The lawyer has competently:
1. Drafting wills	<ul style="list-style-type: none"> • advised the client of issues, options, and potential problems that might arise in respect of the client's testamentary intentions. • obtained instructions reflecting the client's informed and independent wishes, which can be effectively implemented. • drafted a will reflecting the client's instructions. • identified any issues of testamentary capacity and resolved them in accordance with law and good practice. • ensured that the client executed the will in accordance with law. • given any necessary follow up advice to the client.
2. Administering deceased estates	<ul style="list-style-type: none"> • obtained a grant of probate or letters of administration where required. • identified the debts and assets of the estate. • gathered in the estate or transferred or transmitted assets directly to beneficiaries, as appropriate, having regard to the law, good practice, and the circumstances. • discharged the estate's debts, distributed specific gifts and the residue and ensured that the executors have been released of their obligations in a timely fashion.
3. Taking action to resolve wills and estates problems	<ul style="list-style-type: none"> • identified the nature of the problem properly, having regard to the law of the jurisdiction. • identified the client's options for dealing with the problem, having regard to the law of the particular jurisdiction and the client's circumstances. • explained the options to the client in a way the client can easily understand. • taken action to resolve the problem in accordance with the client's instructions.

Explanatory Note

This competency standard applies to wills and deceased estate practice. It must include:

- drawing and advising on standard wills;
- obtaining an uncontested grant of letters of administration on an intestacy or probate where a will exists;
- administering a standard deceased estate;
- helping solve at least one common type of will or estate problem.

Wills and estates problems include:

- testamentary capacity;
- construction;
- validity of the will;
- validity of gifts;
- assets outside the jurisdiction;
- revenue issues;
- family provision;
- mutual wills;
- trusts;

- informal wills;
- testamentary directions.

Follow up advice required may include:

- the effects of marriage on a will;
- the effects of divorce on a will;
- storage options;
- revocation;
- modification;
- availability of associated documents such as enduring powers of attorney.

WORK MANAGEMENT AND BUSINESS SKILLS

Descriptor: An entry level lawyer should be able to manage workload, work habits, and work practices in a way that ensures that clients' matters are dealt with in a timely and cost effective manner.

Element	Performance criteria
The lawyer has competently:	
1. Managing personal time	<ul style="list-style-type: none"> • used a diary or other system to record time limits or deadlines and to assist in planning work. • identified conflicting priorities as they arise and managed the conflict effectively. • used available time effectively, to the benefit of the lawyer's clients and employer.
2. Managing risk	<ul style="list-style-type: none"> • conducted each matter in a way that minimises any risk to the client, lawyer or firm arising from missed deadlines, negligence or failure to comply with the requirements of the law, a court or other body. • recognised the limits of the lawyer's expertise and experience and referred the client or matter to other lawyers, counsel or other professionals, as the circumstances require.
3. Managing files	<ul style="list-style-type: none"> • used a file management system to ensure that work priorities are identified and managed; clients' documents are stored in an orderly and secure manner; and to alert the lawyer to any need to follow up a matter or give it other attention. • rendered timely bills, in accordance with law and any agreement between the lawyer and client, which set out the basis for calculating the lawyer's fees. • accurately recorded all communications and attendances, with details of dates and times.
4. Keeping client informed	<ul style="list-style-type: none"> • communicated with the client during the course of the matter as frequently as circumstances and good practice require. • confirmed oral communications in writing when requested by the client or required by good practice. • dealt with the client's requests for information promptly. • informed the client fully of all important developments in the matter, in a way which the client can easily understand.
5. Working co-	<ul style="list-style-type: none"> • worked with support staff, colleagues, consultants and

operatively counsel in a professional and cost effective manner.

Explanatory Note

This competency standard applies to the exercise of good work habits in a legal practice to ensure that:

- clients do not suffer loss or damage from a lawyer missing deadlines or neglecting matters;
- clients are kept informed regularly and fully of the progress of their matters;
- clients' matters are dealt with in a cost-effective manner.

**APPENDIX CA
MANDATORY CONTINUING PROFESSIONAL DEVELOPMENT**

1 Definitions

In this Appendix:

- 1.1 **CPD** means continuing professional development.
- 1.2 **CPD activity** means an activity:
- (a) of significant intellectual or practical content primarily related to the practice of law; and
 - (b) conducted by persons qualified by practical or academic experience in the subject covered; and
 - (c) relevant to the immediate or long-term professional development needs of the legal practitioner undertaking it; and
 - (d) comprising:
 - (i) attendance at or presenting material for, a seminar, workshop, lecture, conference, educational program or course or discussion group; or
 - (ii) viewing or listening to material for, a multi-media, web-based or recorded program; or
 - (iii) preparing material for any seminar, workshop, lecture, conference, education program, course, discussion group, or a multimedia, web-based or recorded program; or
 - (iv) publishing, or substantively editing or refereeing, an article in a legal or non-legal publication; or
 - (v) regular attendance at meetings, and participation as a member, of a committee or other body undertaking work of substantial significance to the practice of the law and which is reasonably likely to assist the attender's professional development.
- 1.3 **CPD unit** means:
- (a) in relation to a CPD activity referred to in (d) (i), (ii) or (iii) above, one hour of the activity;
 - (b) in relation to a CPD activity referred to in (d) (iv) above, 1000 words of the article;
 - (c) in relation to a CPD activity referred to in (d) (v) above, two hours of the activity.
- 1.4 **CPD year** means a year beginning on 1 April to the following 31 March.
- 1.5 **Defined Circumstances**: see paragraph 6.1.
- 1.6 **Minimum CPD units**: see paragraph 2.

1.7 **The prescribed amount of Mandatory Continuing Professional Development:** see paragraph 3.

1.8 Professional skills includes as subject matter the substance of the law and procedures in the legal system.

1.9 Required CPD activity: see paragraph 2.2.

2 Minimum CPD units are:

2.1 For an individual legal practitioner, 10 CPD units of CPD activity in each CPD year.

2.2 The 10 CPD units must include at least 3 units of Required CPD activity as detailed below:

Required CPD activity

- (a) one CPD unit relating to practical legal ethics;
- (b) one CPD unit relating to practice management or business skills; and
- (c) one CPD unit relating to professional skills.

2.3 In calculating the minimum 10 CPD units of CPD activity in respect of a CPD year, the total units must not include more than:

- (a) 5 CPD units of CPD activity referred to in paragraph 1.2 (d)(ii);
- (b) 4 CPD units for the preparation of material for any individual seminar, workshop etc. as identified in 1.2 (d)(iii);
- (c) 5 CPD units of CPD activity referred to in paragraph 1.2 (d)(iv); or
- (d) 5 CPD units of CPD activity referred to in paragraph 1.2 (d)(v).

2.4 CPD units completed in January, February or March of a CPD year, may at the election of the practitioner be assigned in whole or in part either to that CPD year or to the next CPD year.

2.5 Any CPD activity completed in respect of a CPD year pursuant to this paragraph cannot be taken into account for any other CPD year.

3 The prescribed amount of Mandatory Continuing Professional Development is:

3.1 Where an individual legal practitioner holds a practising certificate for a full CPD year, the Minimum CPD units.

3.2 Where an individual legal practitioner holds a practising certificate for less than a full CPD year, the Minimum CPD units in respect of that year are reduced proportionally in accordance with the following rules:

- (a) the number of CPD units specified in paragraph 2.1 (10 units) shall be reduced by 1 unit for each whole calendar month of the CPD year for which the practitioner did not hold a practising certificate;
- (b) the number of required CPD units specified in paragraph 2.2 (3 units) shall be reduced by 1 unit for each 3 units reduced by (a) hereof;

- (c) the number of CPD Units permitted at paragraph 2.3 (a) (5 units) and (b) (4 units) shall be reduced by 50% (rounded up to the nearest whole number) of the number derived under (a) hereof;
 - (d) the number of CPD Units permitted at paragraph 2.3(c) (5 units) shall be reduced by 1 unit for each 3 units reduced by (a) hereof.
- 3.3 Where during a CPD year Defined Circumstances have occurred which prevented a practitioner from completing the CPD units prescribed in sub-paragraphs 3.1 or 3.2, as applicable, the reduced number of CPD units intimated under paragraph 5.
- 3.4 Where rectification has occurred under paragraph 7.1, the CPD units which the Law Society has determined to accept.

4 Records of CPD

- 4.1 An individual legal practitioner must, in respect of each CPD year, maintain and retain for 3 years after the end of that CPD year:
- (a) a written record of CPD activities undertaken and of CPD units completed and of any activities undertaken pursuant to a condition imposed by the Board pursuant to sub-rule 3A.4(a);
 - (b) material indicating the nature of each CPD activity undertaken and of any activity undertaken pursuant to a condition imposed by the Board pursuant to sub-rule 3A.4(a);
 - (c) a record of the fact that the practitioner undertook each such activity.
- 4.2 An individual legal practitioner must provide to the Law Society within 14 days of receipt of a written request for information about and/or evidence of the practitioner's compliance with his or her obligations under this Appendix in respect of any CPD year within the previous 3 years as specified in the request.

5 Inability to Comply

In this paragraph 5, references to completing the prescribed amount of Mandatory Continuing Professional Development are references to the prescribed amount of Mandatory Continuing Professional Development under sub-paragraphs 3.1 or 3.2, as applicable.

- 5.1 In this paragraph, **Defined Circumstances** means:
- (a) illness or disability;
 - (b) the location of the practitioner's legal practice in Australia;
 - (c) the temporary absence of the practitioner from ongoing legal practice (for example, by reason of a period of leave such as maternity leave); or
 - (d) financial hardship; or
 - (e) any other special circumstance

which prevents, or impairs, the practitioner's completion of the *prescribed amount of Mandatory Continuing Professional Development*.

- 5.1A It is not a Defined Circumstance for a practitioner to be temporarily absent from legal practice by reason of being engaged in employment unrelated to legal practice.
- 5.2 Where during a CPD year Defined Circumstances exist or occur which are likely to prevent or impair a practitioner from completing the prescribed amount of Mandatory Continuing Professional Development, the practitioner must lodge with the Law Society a statutory declaration as soon as practicable after it becomes apparent that it is likely that the practitioner will not complete the prescribed amount of Mandatory Continuing Professional Development: and:
- (a) setting out full details of the Defined Circumstances and their past and/or likely future effect upon the practitioner's ability to complete the prescribed amount of Mandatory Continuing Professional Development;
 - (b) setting out the number of CPD units (including Required CPD activities) the practitioner has completed and plans to complete during the balance of the CPD year;
 - (c) setting out the evidence and exhibiting any documentary evidence which demonstrates the matters in (a) and (b);
 - (d) seeking an intimation from the Law Society of the number of CPD units to comprise his or her prescribed amount of Mandatory Continuing Professional Development, the relevant date for their completion and the modification of any Required CPD activity or other limits or requirements of the prescribed amount of Mandatory Continuing Professional Development.
- 5.3 A practitioner who does not complete the prescribed amount of Mandatory Continuing Professional Development by 31 March due to Defined Circumstances must by 14 April lodge with the Law Society a statutory declaration setting out:
- (a) the number of CPD units (including required CPD activities) the practitioner completed in respect of that CPD year;
 - (b) the number of CPD units (including Required CPD activities) which the practitioner was prevented by Defined Circumstances from completing in respect of the CPD year;
 - (c) whether or not the practitioner has lodged a statutory declaration as required by paragraph 5.2, and if not, why not.
- 5.4 Where during a CPD year Defined Circumstances have occurred which prevented a practitioner from completing the prescribed amount of Mandatory Continuing Professional Development, provided the practitioner has complied with sub-paragraphs 5.2 and 5.3, the prescribed amount of Mandatory Continuing Professional Development which the practitioner is required to accrue is reduced under sub-paragraph 3.3 to the extent that the Defined Circumstances have so prevented compliance.

6 Certification of Compliance

- 6.1 An individual legal practitioner must by 14 April each year lodge with the Law Society a certificate by the practitioner that the practitioner has complied with

the obligations contained in paragraphs 3 and 4 of Appendix C in respect of the preceding CPD year.

7 Rectification of Contravention

- 7.1 Where a practitioner has not completed the prescribed amount of Mandatory Continuing Professional Development in accordance with sub-paragraphs 3.1, 3.2 or 3.3, he or she must:
- (a) by 14 April lodge with the Law Society a statutory declaration setting out:
 - (i) the number of CPD units (including Required CPD activities) the practitioner has completed in respect of that CPD year;
 - (ii) the number of CPD units (including Required CPD activities) which the practitioner has not completed in respect of that CPD year;
 - (iii) details of CPD activities which the practitioner proposes to undertake prior to 31 May of that year to rectify the non-compliance;
 - (iv) if Defined Circumstances have existed and an intimation has not previously been sought under paragraph 5.2, details of the matters set out in paragraph 5.2.
 - (b) by 31 May undertake sufficient CPD and other activities as are necessary to rectify the non-compliance; and
 - (c) by 7 June lodge with the Law Society a certificate by the practitioner setting out the number of CPD units (including of Required CPD activities) completed in respect of the prior CPD year up to the date of the certificate.

The Law Society may determine to accept the number of CPD units so completed as completion of the prescribed amount of Mandatory Continuing Professional Development for the issue of a practising certificate subject to a condition or conditions under Rule 3A.4(a).

- 7.2 If a practitioner has completed the prescribed amount of Mandatory Continuing Professional Development, notwithstanding any failure by the practitioner to adhere to the time limits in paragraphs 5, 6 and 7, the Law Society may be satisfied that the practitioner has completed the prescribed amount of Mandatory Continuing Professional Development within Rule 3A.3.

8 Sundry

- 8.1 The Law Society may be satisfied on the basis of a certificate received in compliance with 6 and 7.1(c) that a practitioner has completed the prescribed amount of MCPD within Rule 3A.3.
- 8.2 The Law Society may charge a practitioner who does not comply with a time limit in paragraphs 5, 6 and 7 a reasonable fee for receipt and processing documents lodged after the expiry of the time limit.

SCHEDULE TO THE LPEAC RULES 2004

FORM 1

NOTICE OF INTENTION TO ENTER INTO ARTICLES

To the Board of Examiners

TAKE NOTICE that I, A.B., of (place of residence) intend to enter into articles of clerkship with (name and address of practitioner) after the expiration of twenty-one days from the date of giving this notice.

Dated the day of

.....
(Signature of intending articulated Clerk)

PARTICULARS TO BE GIVEN BY INTENDING ARTICLED CLERK

1. I was born on the day of in the State of
I have resided in South Australia all my life, etc. [or as the case may be, giving details].
2. I have complied with the academic requirements for admission as defined in Rule 2 of the LPEAC Rules 2004.
3. I have applied for but have been unable to obtain entry to the course of study leading to the grant of the Graduate Diploma in Legal Practice for the year as appears from the certificate of the Course Co-ordinator [or otherwise appropriate authority] annexed hereto. [Or refer to such other course as may be applicable.]
4. Since leaving school I have not been employed in any trade or business [if employed, give particulars, stating when and by whom].
5. I have not been convicted or found guilty by a Court of any offences, nor, as far as I am aware, are there any charges or proceedings outstanding against me in relation to any offence or offences alleged to have been committed by me (add , if necessary, "save and except that (or those) disclosed in the statement annexed hereto in the sealed envelope marked with the letter A").

NOTE: Full details must be given in relation to each offence or alleged offence of the date and nature of the charge, the Court in which it was or will be heard, the sentence (if any) imposed, and the circumstances in which the offence was or is alleged to have been committed.

6. My address for service of notices is

.....
.....
.....

.....
(Signature of intending articulated Clerk)

Amendments to the LPEAC Rules 2004:

The Legal Practitioners Education and Admission Council Rules 2004, which repealed the LPEAC Rules 1999, came into operation on 1 January 2004 (*Government Gazette* 27 March 2003, p.1202), have been varied by LPEAC Rules dated:

Amendment No.	Government Gazette Date
No. 1	3 June 2004, p.1704
No. 2	22 September 2005, p.3377
No. 2 (<i>Erratum</i>)	8 June 2006, p.1593
No. 3	8 May 2008, p.1578
No. 4	19 August 2010, p. 4314
No. 5	10 February 2011, p. 474
No. 6	12 May 2011, p. 1457
No. 7	12 March 2015, p. 1139
No. 8	26 November 2015, p. 5070
No. 9	14 January 2016, p. 54