

# Legal Practitioners Admission Rules 1994

[1994-317]



New South Wales

## Status Information

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### Notes—

- **Previously named**  
Legal Practitioners Transitional Admission Rules 1994

### Authorisation

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New South Wales

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# Legal Practitioners Admission Rules 1994



New South Wales

## Part 1 Preliminary

### 1

(1) These Rules may be cited as the *Legal Practitioners Admission Rules 1994*.

(2) These Rules shall take effect on 1 July 1994.

2 Any previous rules of the Barristers Admission Board and Solicitors Admission Board or either of them shall no longer have any effect.

3 These rules are divided into Parts as follows:

PART 1—Preliminary, Rules 1–6

2—Administration, Rules 7–14

3—Legal Qualifications Committee, Rules 15–26

3A—Examinations Committee, Rules 27–27K

4—Students-at-Law, Rules 28–36

5—Declarations as to Character, Rules 37–41

6—Accredited Law Schools, Rules 42–45

7—Examinations, Rules 46–78

8—Certificates, Rules 79–81

9—Discipline, Rules 82–88

10—Hearings, Rules 89–93

11—Admission of Legal Practitioners, Rules 94–108

12—Fees, Rules 109–113

13—Miscellaneous, Rules 114–115

### 4



(1) In these Rules, unless the context or subject matter otherwise indicates or so requires:

**Accredited Law School** means a law school which:

- (a) before these Rules took effect, had its curriculum approved by a former Barristers Admission Board and a former Solicitors Admission Board, or
- (b) after these Rules took effect, has a degree conferred by it accredited by the Board,

and the approval or accreditation has not been withdrawn or ceased to have effect.

**admit** means admit as a legal practitioner.

**Board** means the Legal Practitioners Admission Board.

**Board's Examinations** are those set out in Rule 53 as supplemented by Rule 55.

**President** means the person nominated under s 3 of the Act to preside at meetings of the Board.

**Court** means the Supreme Court of New South Wales.

**Examinations Committee** means the Committee established under the Rules to oversee the content and conduct of the Board's examinations and the candidatures of Students-at-Law.

**Executive Officer** means the person appointed as Executive Officer to the Board Pursuant to Rule 7.

**Graduate** means a person who has taken a degree after examination in any university considered by the Board as being of good standing whether within or outside New South Wales.

**Judge** means a Judge of the Court.

**Law Extension Committee** means the Law Extension Committee of the University of Sydney.

**law school** means an educational facility which:

- (a) is conducted by a tertiary educational authority, and
- (b) has as one of its aims the production as graduates of persons eligible to be admitted as lawyers whether within or outside New South Wales.

**Lawyer** means a barrister, solicitor, barrister and solicitor or legal practitioner.

**Legal Qualifications Committee** means the Committee established under the Rules to superintend the qualification of candidates for admission and to advise the Board in

relation to the accreditation of academic and practical training courses.

**Practical Legal Training Course** means the course of practical legal training conducted through the Practical Legal Training Department of the College of Law.

**prescribed fee** means the fee fixed from time to time by the Board.

**Suitable Person** means a person who is above the age of 30 years, is unrelated to the applicant for registration or admission and has known the applicant for not less than 3 years.

**Student-at-Law** means a person registered as such under Part 4.

**the Act** means the [Legal Profession Act 1987](#).

(2) For the purposes of these Rules, a person who satisfies the requirements of a body or law school in respect of a subject, whether by examination or other means, shall be taken to have passed the subject at or in the body or law school.

- 5 Unless the context or subject matter otherwise indicates or so requires, the definitions in the Act apply to these Rules.
- 6 When these Rules provide that any document shall be in a certain form, the document shall be in the form in the First Schedule hereto applicable for the purpose or shall be in such other form as the Board approves as sufficient either generally or in respect of any particular case.

## Part 2 Administration

### 7

- (1) The Board shall appoint a person to be its Executive Officer.
- (2) The Executive Officer shall either in person or by deputy approved by the President attend all meetings of the Board, keep minutes of its proceedings, conduct its correspondence and perform such other duties as the Board may require.

- 8 The Executive Officer shall keep the Board aware of the financial position of the Board at all times and shall provide the appropriate information to enable the Board to comply with the [Public Finance and Audit Act 1983](#).

### 9

- (1) The Board shall have a seal.
- (2) The Seal of the Board may be affixed by Resolution of the Board under the hand of the Chief Justice, the President or another judicial member and witnessed by another member.
- (3) The Board may by a general resolution authorise the affixation of the Seal to any

Diploma under these Rules.

- 10** A document, including a certificate, to be issued by the Board may be issued under seal or under the hand of the Chief Justice, the President or the Executive Officer.
- 11** On any application, the Board may adjourn consideration pending the provision of such further material or evidence as it considers necessary or appropriate.
- 12** The Board may inform itself of any matter which it considers relevant to an application before it in any manner it thinks appropriate, but the Board shall not determine an application adversely to an applicant on material not supplied by such applicant without first giving notice of the material.
- 13**
- (1) Subject to the provisions of the Act, the Board, the Legal Qualifications Committee or the Examinations Committee may in circumstances which it regards as sufficiently special and upon such conditions as it thinks fit relax any of these rules. Application for such relaxation shall be made through the Executive Officer not less than 14 days before the relevant meeting.
  - (2) Without derogating from the generality of subrule (1), the Board may relax any rules relating to qualification of legal practitioners or Students-at-Law.
  - (3) An application for relaxation of any Rule relating to qualification of legal practitioners or Students-at-Law may be made either together with an application for admission or registration or separately.
  - (4) Where an application is made both under this Rule and for admission or registration, the applicant shall comply with the Rules relating to applications for admission or registration.
- 14** Every applicant for admission and every applicant for registration as a Student-at Law shall, if required by the Board, provide answers to such questions as the Board may propose touching his or her conduct and shall attend the Board for the purpose of giving further explanations touching the same if so required. If a person fails to comply with this Rule within one month of a requirement being made, the Board may, without further notice, refuse the application.

### **Part 3 Legal qualifications committee**

- 15** The Legal Qualifications Committee is hereby constituted to superintend the qualification of candidates for admission and to advise the Board in relation to the accreditation of academic and practical training courses.

**16**

- (1) The Legal Qualifications Committee shall consist of the following persons:
  - (a) three Judges nominated by the Chief Justice,
  - (b) three Barristers nominated by the Bar Council,

- (c) three Solicitors nominated by the Law Society Council, and
- (d) the Professors of Law or full-time Law Lecturers nominated by the NSW Committee of Law Deans.

(2) The Legal Qualifications Committee may, by co-option, appoint up to two further members being persons who are or have been Judges, Barristers, Solicitors, Professors of Law or full-time Law Lecturers.

(3) The person or body responsible for an appointment or nomination under this rule may vary that appointment or nomination.

**17** Nominations under rule 16 shall be in writing to the Executive Officer.

**18**

(1) The term of office of a member of the Legal Qualifications Committee shall normally be from 1 July of an even numbered year to 30 June of the next even numbered year.

(2) All positions become vacant on 30 June of an even numbered year.

(3) Members may be re-nominated for subsequent terms.

**19** The Legal Qualifications Committee shall elect:

(a) as its Chairperson a Judge appointed under rule 16 (1) (a), and

(b) a Deputy Chairperson to exercise all the powers of the Chairperson when the Chairperson is absent.

**20** The Executive Officer shall be the Executive Officer of the Legal Qualifications Committee.

**21** Five members shall constitute a quorum of the Legal Qualifications Committee.

**22** The Legal Qualifications Committee shall appoint an Academic Exemptions Sub-Committee of up to three members to determine applications under rule 97.

**23** The Legal Qualifications Committee shall appoint a Practical Training Exemptions Sub-Committee of up to three members to determine applications under rule 98.

**23A (Repealed)**

**24** The Legal Qualifications Committee shall appoint an Accreditation Sub-Committee of up to three members to make recommendations relating to the recognition and accreditation of courses under these Rules.

**25** The Legal Qualifications Committee may delegate to its Chairperson, a member, several members, the Executive Officer or any combination of the foregoing the making of a decision on any particular matter or class of matters provided always that a person who is aggrieved by a decision of a delegate may apply for a re-hearing by the Legal Qualifications Committee.

**26** The Legal Qualifications Committee is accountable to the Board and shall report to the Board at

least once in each calendar year as to its activities including in such report any proposals the Committee may wish to make about matters relating to the Committee's work.

### **Part 3A Examinations committee**

**27** The Examinations Committee is hereby constituted to oversee the content and conduct of the Board's examinations and the candidatures of Students-at-Law.

#### **27A**

- (1) The Examinations Committee shall consist of the following persons:
  - (a) two Judges nominated by the Chief Justice,
  - (b) one Barrister nominated by the Bar Council,
  - (c) one Solicitor nominated by the Law Society Council,
  - (d) the Director of the Law Extension Committee, and
  - (e) two Examiners appointed by the Chairperson of the Examinations Committee.
- (2) The Examinations Committee may, by co-option, appoint up to two further members being persons who are or have been Judges, Barristers, Solicitors, Professors of Law or full-time Law Lecturers.
- (3) The person or body responsible for an appointment or nomination under this rule may vary that appointment or nomination.

**27B** Nominations under rule 27A shall be in writing to the Executive Officer.

#### **27C**

- (1) The term of office of a member of the Examinations Committee shall normally be from 1 July of an even numbered year to 30 June of the next even numbered year.
- (2) All positions become vacant on 30 June of an even numbered year.
- (3) Members may be re-nominated for subsequent terms.

**27D** The Examinations Committee shall elect:

- (a) as its Chairperson a Judge appointed under rule 27A (1) (a), and
- (b) a Deputy Chairperson to exercise all the powers of the Chairperson when the Chairperson is absent.

**27E** The Executive Officer shall be the Executive Officer of the Examinations Committee.

**27F** Four members shall constitute a quorum of the Examinations Committee.

**27G** The Examinations Committee shall appoint a Performance Review Sub-Committee of up to three

members to determine applications under rule 67.

**27H** The Examinations Committee shall appoint a Curriculum Sub-Committee of up to three members to plan, in consultation with Examiners and Revising Examiners, the curriculum and syllabi for the Board's examinations.

**27I** The Examinations Committee shall appoint a Quality Sub-Committee of up to three members to oversee the quality of the examinations and marking.

**27J**

(1) The Examinations Committee shall in the name of the Board appoint such Examiners and Revising Examiners as are required to conduct the Board's examinations. All such appointments shall, unless otherwise specified, be for a single examination period.

(2) The Examinations Committee may delegate, to its Chairperson, a member, several members, the Executive Officer or any combination of the foregoing the making of a decision on any particular matter or class of matters provided always that any person who is aggrieved by the decision of a delegate may apply for a re-hearing by the Examinations Committee.

**27K** The Examinations Committee is accountable to the Board and shall report to the Board at least once in each calendar year as to its activities including in such report any proposals the Committee may wish to make about the Rules and procedures relating to the Committee's work.

## **Part 4 Students at Law**

**28**

(1) The Board may register a person as a Student-at-Law.

(2) The Board may refuse to register a person as a Student-at-Law if it is not satisfied that the person is of good fame and character and otherwise suitable for registration.

(3) The Board may refuse to register a person as a Student-at-Law if the person is not living in, or does not expect to be living in, Australia during candidature for the Board's examinations.

**29** A person is qualified to apply for registration as a Student-at-Law if he or she:

(a) has passed the Special Tertiary Admissions Test (STAT) with a mark of 152 or above,

(b) holds a degree from a university,

(c) has completed the NSW Higher School Certificate achieving the levels set out in the table hereunder,

<b>Year</b>	<b>Minimum Level</b>	<b>Minimum English mark calculated as an average of HSC examination and assessment marks</b>

Before 1986	Aggregate of 253	2 Unit General/2 Unit A	60
		2 Unit	53
1986-90	TES of 253	2 Unit General	60
		2 Unit	53
1990-99	TER of 50	2 Unit Contemporary	60
		2 Unit Related/General	53
1999-2000	UAI of 66	2 Unit Contemporary	60
		2 Unit Related/General	53
2001-	UAI of 66	Standard/Advanced	60
		ESL	70

- (d) completed the equivalent of the NSW Higher School Certificate examination in Australia or New Zealand, achieving a level equivalent to one of the levels set out in the table in clause “c” above,
- (e) holds a diploma, advanced diploma or associate diploma from an Australian university or TAFE college,
- (f) has passed the International Baccalaureate examination with a result of 30 points or more and a result in English A of at least 4 points at the Higher Level or 5 points at the Standard level,
- (g) has been admitted to candidature for a degree in an Australian or New Zealand university,
- (h) has qualified in a TAFE college or elsewhere for the award of a Certificate III or Certificate IV as assessed by the Australian Qualifications Framework,
- (i) has gained qualifications outside Australia equivalent to a Diploma, Advanced Diploma, Certificate III or Certificate IV,
- (j) has been employed as a paralegal or a legal secretary undertaking actual legal work under supervision for at least three years, or
- (k) has been either a police officer or a registered nurse who has passed some examinations in either of those professions.

### 30

- (1) An application for registration as a Student-at-Law shall be in and to the effect of form 1.
- (2) An application in form 1 shall be lodged with all required attachments no less than 14 days before the date of the Board meeting which is to decide it.

### 31, 32 (Repealed)

**33** Every Student-at-Law shall, unless excused by the Board or its delegate, attend the course of studies required by the Law Extension Committee of the University of Sydney relevant to the subject or subjects currently being studied.

**34**

(1) Any person who is aggrieved by:

(a) the Board's refusal of an application for registration as a student-at-Law or for a Certificate of Eligibility for Admission, or

(b) the grant of such application subject to conditions,

may:

(c) request the Board to give its reasons for that decision, and/or

(d) request the Board to rehear the application.

(2) Only one request for rehearing may be made in respect of any application.

**35** On any rehearing of an application pursuant to a request made under Rule 34, the applicant may further request an oral hearing before a committee of the Board, in which case the Board shall not finalise such rehearing adversely to the applicant before receiving a report from such committee.

**36** The Executive Officer shall, as soon as practicable after the relevant Board meeting, notify the applicant of the outcome of the application and, if appropriate, whether the applicant has been accepted into any quota and his or her student number.

## **Part 5 Declarations of character**

**37** An application under s13 of the Act for a declaration that matters do not affect fame or character shall be in Form 4.

**38** An application under this Part shall be filed with the Executive Officer at least 60 days before the meeting of the Board at which the application is considered.

**39**

(1) Within 7 days of filing the application, the applicant shall serve the application and copies of all supporting evidence upon the Registrar of the Bar Association and the Secretary of the Law Society.

(2) Evidence in support of applications under this Part shall be by statutory declaration.

**40** Within 12 weeks of receipt of a copy of the application, the Bar Association and the Law Society shall inform the Executive Officer of the Board of the attitude taken to the application in Form 5.

**41**

(1) If the application is opposed by neither the Bar Association nor the Law Society, the Board may determine it without the attendance of any person.



- (2) If the application is opposed by the Bar Association or the Law Society, the Board shall proceed in accordance with Part 10 of these Rules.

## **Part 6 Accredited law degrees**

### **42 (Repealed)**

### **43**

- (1) A law school (not already an Accredited Law School) which proposed to offer an accredited law degree with effect from 1 January in any year may apply to the Board by 30 June in the preceding year for accreditation of the degree.
- (2) With its application, the applicant law school shall submit details of the subjects proposed to be taught and the proposed requirements for entitlement to the law degree.
- (3) The Board shall refer all material supplied under subrules (1) and (2) to the Legal Qualifications Committee, which shall refer the material to the Syllabus and Curriculum Sub-Committee.
- (4) The Syllabus and Curriculum Sub-Committee shall, after considering the material supplied under subrule (3), recommend to the Legal Qualifications Committee:
- (a) that the degree be recognised as providing a sufficient academic training to practise law in the areas of knowledge set out in rule 94 (1) (b), with the exception of Professional Conduct (including basic trust accounting),
  - (b) that the degree be so recognised only in respect of a holder of the degree who has taken one or more designated elective subjects within the degree, or
  - (c) that the degree not be so recognised.
- (5) The Legal Qualifications Committee shall, after considering the recommendation of the Syllabus and Curriculum Sub-Committee under subrule (4), make its own recommendation to the Board.
- (6) The Board shall, after considering the recommendation of the Legal Qualifications Committee under subrule (5):
- (a) accredit the degree,
  - (b) accredit the degree only in respect of a holder of the degree who has taken one or more designated elective subjects within the degree, or
  - (c) refuse to accredit the degree,
- in each case with effect from 1 January in the succeeding year, and notify the law

school accordingly.

**44**

- (1) Not later than 30 June each year, each Accredited Law School shall give notification to the Board of:
  - (a) any material alteration which it has made to the curriculum for an accredited law degree, of which it has not previously given notification, and
  - (b) any material alteration which it proposes to make to the curriculum for an accredited law degree,
  - (c) the opinion of the Dean or Head of School as to whether the compulsory requirements for the award of the accredited law degree include demonstrating understanding and competence in the areas of knowledge set out in Subrule (95) (1) (b) and the Fifth Schedule.

If an Accredited Law School makes a notification pursuant to Subrule (1) (b) the notification made by that Law School under Subrule (1) (c) shall be made with respect to the degree requirements as affected by the proposed alteration to the curriculum.

- (2) The Board shall refer all material supplied under subrule (1) to the Legal Qualifications Committee, which shall in turn refer the material to the Accreditation Sub-Committee.
- (3) The Accreditation Sub-Committee shall, after considering the alteration or proposed alteration, recommend to the Legal Qualifications Committee that the alteration be approved or not be approved.
- (4) The Legal Qualifications Committee shall, after considering the recommendation of the Accreditation Sub-Committee under subrule (3), make its own recommendation to the Board.
- (5) The Board shall, after considering the recommendation of the Legal Qualifications Committee under subrule (4), and not later than 30 September of the year in which notification was given under subrule (1), notify the law school:
  - (a) in the case of an alteration—that the alteration has been approved or has not been approved, and in the latter case that the accreditation of the law degree may be withdrawn, and
  - (b) in the case of a proposed alteration—that the alteration has been approved or has not been approved.
- (6) The Board may withdraw accreditation for a degree if an alteration to the curriculum is not approved or is not amended to the satisfaction of the Board.
- (7) Where a proposed alteration to a curriculum for a law degree is approved, the degree,

altered as approved, shall be an accredited law degree.

**45** Where accreditation for a law degree is withdrawn under rule 44, the degree shall, for the purposes only of the application of these Rules to a student who commenced the course for the degree prior to the cessation or withdrawal, be taken to be an accredited law degree, provided that student has passed examinations in the areas of knowledge set out in rule 94 (1) (b).

**45A**

- (1) Not later than 30 June each year, each institution offering a course of practical training included in the Fourth Schedule shall give notification to the Board of:
  - (a) any material alteration which it has made to the curriculum of its course of practical training, and of which it has not previously given notification,
  - (b) any material alteration which it proposes to make to the curriculum of its course of practical training.
- (2) The Board shall, not later than 30 September of the year in which notification was given under subrule (1), notify the institution:
  - (a) in the case of an alteration—that the alteration has been approved or has not been approved, and in the latter case that the course may be removed from the Fourth Schedule, and
  - (b) in the case of a proposed alteration—that the alteration has been approved or has not been approved.
- (3) The Board may remove a course from the Fourth Schedule if an alteration to the curriculum is not approved or is not amended to the satisfaction of the Board.

**Part 7 Examinations**

- 46** The Board's Examinations shall be held twice each year at such places and times as the Board shall appoint and shall be under the control of the Examinations Committee.
- 47** Only Students-at-Law shall sit for the Board's Examinations.
- 48** Notwithstanding Rule 47, if the Court or a Disciplinary Tribunal constituted under the Act orders that a legal practitioner should submit to re-examination in a subject or subjects, such person may sit for such of the Board's Examinations as if he or she were registered as a Student-at-Law.
- 49** The Board may, by resolution made not later than 30 June in any year, determine that a quota shall be imposed for the Students-at-Law to be examined in the next succeeding year for all or any of the Board's Examinations.
- 50** The Board may determine that the quota referred to in Rule 49 be filled after consideration of all or any of the following factors:
- (a) the applicant's educational and professional qualifications,

- (b) the reasons given by the applicant for desiring to sit for the Board's examinations,
- (c) the value of a Diploma in Law in connection with the applicant's present or future employment or occupation,
- (d) the aptitude of the applicant to undertake a course of legal education,
- (e) the length of time since the applicant has been registered as a Student-at-Law.

**51** Where a quota applies to any examination, only those Students-at-Law admitted to the quota shall sit for that examination.

**52** Except as herein provided, each Student-at-Law shall pass the Board's Examinations before an application for admission is approved by the Board.

**53** The Board's examinations are:

(a) in the case of a student-at-law who has passed or been credited with Preliminary before 1 May 1993:

(aa) the following subjects:

Preliminary

Contracts

Torts

Criminal Law and Procedure

Real Property

Australian Constitutional Law

Equity

Commercial Transactions

Administrative Law

Law of Associations

Evidence

Taxation and Revenue Law

Succession

Conveyancing

Practice and Procedure

Jurisprudence

Legal Ethics

(ab) two of the following subjects:

- Insolvency
- Conflict of Laws
- Family Law
- Local Government and Planning
- Industrial Law
- Intellectual Property Law
- Public International Law
- Trade Practices Law

(b) in any other case:

(ba) the following subjects:

- Legal Institutions
- Contracts
- Torts
- Criminal Law and Procedure
- Real Property
- Australian Constitutional Law
- Equity
- Commercial Transactions
- Administrative Law
- Law of Associations
- Evidence
- Taxation and Revenue Law
- Succession
- Conveyancing
- Practice and Procedure
- Jurisprudence
- Legal Ethics

(bb) three of the following subjects:

- Insolvency
- Conflict of Laws
- Family Law
- Local Government and Planning
- Industrial Law
- Intellectual Property Law
- Public International Law
- Trade Practices Law

**54**

- (1) The Examinations Committee may recommend to the Board the variation of the list of examinations and subjects prescribed by Rule 53, including any alteration in the order in which subjects may be taken or the way in which optional subjects may be offered or in the unit value of a subject.
- (2) The Examinations Committee shall, when making any recommendation under the preceding subrule, recommend the time for which any such recommendation shall come into operation and any transitional provision which ought to be made.
- (3) The Board may approve any such recommendation, approve it with such amendments as it thinks fit, refuse to approve the recommendation, or remit it to the Examinations Committee for further consideration.

**55** Upon the Board accepting a recommendation under Rule 54, the list of examinations shall be deemed varied as and from the next set of examinations commencing 6 months after the date of such acceptance, without the necessity for any amendment of Rule 53 and thereafter such examinations shall constitute the Board's Examinations.

**56**

- (1) The Examinations Committee shall regularly reconsider the syllabus of the subjects of examination and shall amend any such syllabus as required.
- (2) Every such amendment shall come into operation at the time prescribed by the Examinations Committee.

**57** The Examinations Committee may from time to time prescribe texts, notes and other materials upon which the examination in each subject shall, in accordance with the prescribed syllabus, be set.

**58**

- (1) A Student-at-Law may sit for the Legal Institutions examination not less than 4 months after becoming a Student-at-Law or after obtaining the permission of the Examinations Committee to commence studies.
- (2) No Student-at-Law, whose application for registration as a Student-at-Law was filed after 1 March in any year, shall sit for the Legal Institutions examination in September of that year.
- (3) No Student-at-Law, whose application for registration as a Student-at-Law was filed after 1 September in any year, shall sit for the Legal Institutions examination in March of the succeeding year.

**59**

- (1) A student-at-law who has not passed the examinations in or been credited with or exempted from at least 11 subjects must sit for the examination in other subjects in the order in which they appear in rule 53 or in any variation thereof under rule 55.
- (2) A student-at-law who has passed the examinations in or been credited with or exempted from at least 11 subjects may sit for the examinations in the remaining subjects in any order.
- (3) A student-at-law must not, at any one sitting, sit for examination in more than two subjects until that student-at-law has passed eight compulsory subjects after which that student-at-law may not at any one sitting, sit for more than three subjects.
- (4) The Examinations Committee may, in circumstances which it regards as sufficiently special, and upon such conditions as it thinks fit, relax the provisions of this rule.
- (5) A student-at-law who completes the Board's examinations except for Jurisprudence or Jurisprudence and Legal Ethics at the March or September 1998 examinations may substitute at the March or September 1998 examinations another subject for Jurisprudence.

**60** Every person desirous of proceeding to any examination under these Rules shall comply with the enrolment procedures detailed in the Student Course Information Handbook relevant to the semester for which he or she intends to apply.

**61** Examinations may only be undertaken at those examination venues nominated in the Student Course Information Handbook.

**62** Every person desirous of proceeding to examination at a country centre shall, at the time of giving the relevant notice under Rule 60, pay for each subject in which he or she intends to sit such additional fee, if any, as may be fixed from time to time by the Board to meet the expenses of supervising such examination.

**63** If the Board determines not to hold any examination at a country centre, the persons who desired to sit for the examination at that centre shall be notified in time to enable them to sit for the

examination in Sydney or such other country centre as the Board may determine.

- 64** Subject to Rule 67, any candidate who, without prior leave of the Examinations Committee, fails to sit for examination in at least 2 subjects in any 2 successive sessions shall be excluded from taking any further examination prescribed by these Rules.
- 65** Subject to Rule 67, a candidate who has passed the examinations in all subjects except one and fails to sit for examination in the remaining subject at least once in any 2 successive sessions shall be excluded from taking any further examination in the remaining subject.
- 66** Subject to Rule 67, a candidate who fails any subject a second time shall be excluded from taking any further examination prescribed by these Rules.

**67**

- (1) A person excluded by Rules 64, 65 or 66 may apply to the Examinations Committee for relaxing of the Rules. That Committee shall refer all such applications to its Performance Review Sub-Committee.
- (2) The Performance Review Sub-Committee may, in circumstances which it regards as sufficiently special, recommend relaxation of Rule 64, 65 or 66 upon such conditions (if any) as it considers appropriate.
- (3) No person shall make more than one application under this Rule in any 12 month period.
- (4) An application under this rule shall be accompanied by the prescribed fee.

**68-70 (Repealed)**

- 71** A person aggrieved by the determination of the Examinations Committee under Rule 67 may, within one month of notice being given of the making of such determination or within such extended time as the Board may allow, apply to the Board to review such determination.

**72**

- (1) A Student-at-Law, or any other person to whom these Rules apply, who desires to sit for any examination (in this and succeeding Rules referred to as "the candidate") shall, in the period immediately preceding the examination, enrol for and undertake such courses of instruction in the subjects of that examination (whether by lectures, correspondence or otherwise) as may for the time being be conducted by the Law Extension Committee, unless the Law Extension Committee refuses enrolment.
  - (2) At the time of enrolling, a candidate shall pay the Board on behalf of the University of Sydney such fees for such courses of instruction as may be fixed from time to time by that University and shall also pay to the Board the Examination fee.
- 73** A candidate who has enrolled for and undertaken a course of instruction in a subject of examination conducted by the Law Extension Committee in accordance with Rule 72, and who has completed the requirements of the course, may sit for the examination in that subject unless the



Law Extension Committee notifies the candidate and the Examinations Committee prior to the examination that the candidate has not completed the requirements of the course to the satisfaction of the law Extension Committee.

**74 (Repealed)**

**75** The Board may, without any alteration to these Rules, add to, modify or vary the contents of the Second Schedule from time to time, and the Executive Officer shall at all reasonable times make available at no cost to any enquirer a copy of the then current information that has taken the place of the information in the Second Schedule.

**76 (Repealed)**

**77**

- (1) The Examinations Committee shall control the appointment of examiners, setting and marking of the Board's examinations and announcing of the results of such examinations.
- (2) The Examinations Committee may, of its own motion, refer any matter touching or concerning the examinations to the Board.
- (3) Any candidate at an examination who considers that he or she is aggrieved by any determination made by the Examinations Committee in respect of an examination may apply to the Board for a review of that determination.

**78** The Examinations Committee may, in circumstances which it regards as sufficiently special and upon such conditions as it thinks fit, grant:

- (a) exemption from any examination prescribed by these Rules, or
- (b) exemption from any of the requirements of this Part.

**78A**

- (1) The Board may award academic prizes to Students-at-Law on account of their performance in the Board's examinations.
- (2) The terms and conditions of each prize shall be determined by the Board from time to time.

**Part 8 Certificates**

**79**

- (1) Upon request and upon payment of the prescribed fee, the Executive Officer may issue the following certificates to persons qualified to receive them:
  - (a) Certificate of registration as a Student-at-Law,
  - (b) Certificate of admission.

- (2) The said certificates may be in Form 6 or 7 as the case may be.
- (3) If a certificate under subrule (1) (b) is required within 48 hours of request, the prescribed additional fee shall be paid.

**80**

- (1) Subject to subrule (2), a person who has passed the Board's Examinations or equivalent examinations prescribed by the then Barristers and Solicitors Admission Boards after 22 August 1965 is entitled to receive from the Executive Officer a certificate entitled "Diploma in Law".
- (2) No person shall be entitled to receive the Diploma in Law if he or she has sat for and passed fewer than half of the Board's Examinations.
- (3) Upon receipt of such Diploma, the person named therein shall be entitled to adopt the description of the holder of that Diploma.
- (4) A Diploma under this Rule may be in Form 8.
- (5) A person applying under this rule to receive a diploma to which he or she is entitled on account of examinations completed more than 3 years before the date of application shall pay the fee prescribed in the Third Schedule for original diplomas and certificates.

**81** Upon request and payment of the prescribed fee, the Executive Officer may issue a Certificate in Form 9 that the applicant has passed one or more of the examinations.

**81A** Upon being awarded an academic prize by the Board a student shall be entitled to receive a certificate in Form 15 bearing the seal of the Board.

## **Part 9 Discipline**

**82** The Examinations Committee and the Law Extension Committee shall be vigilant to detect any cases of cheating in examinations or in home assignments (in this Part referred to as academic misconduct).

**83**

- (1) Where an allegation of academic misconduct is made against a Student-at-Law, the Executive Officer shall, unless he or she is of the view that the allegation is frivolous, put the allegation to the Student-at-Law and request the Student-at-Law to show cause in writing within 14 days why he or she should not be dealt with under Rule 84.
- (2) The Executive Officer shall refer the allegation, and any response by the Student-at-Law, to the Committee.

**84**

- (1) The Committee shall consider any allegation of academic misconduct referred to it by

the Executive Officer, and any response by the Student-at-Law, and may decide that:

- (a) the allegation is not substantiated,
- (b) the allegation is substantiated, but that no action should be taken in respect of the allegation, or
- (c) an oral hearing should be held in respect of the allegation.

(2) Where the Committee decides that an oral hearing should be held, the procedure for the hearing shall be as close as practicable to the procedure set out in Part 10.

(3) The Committee may, after considering the allegations, any response of the Student-at-Law, and any report of a hearing committee, decide that:

- (a) the allegation is not substantiated,
- (b) the allegation is substantiated but that no action should be taken in respect of the allegation, or
- (c) the allegation is substantiated and that:
  - (i) the Student-at-Law be admonished or reprimanded,
  - (ii) the Student-at-Law be refused admission to further examinations for a defined period, or
  - (iii) the matter be reported to the Board.

**85** Upon any matter coming before the Board under Rule 84 (3) (c) (iii), the Board may decide that:

- (a) no action be taken,
- (b) the Student-at-Law be admonished or reprimanded,
- (c) the Student-at-Law be refused admission to further examinations for a defined period, or
- (d) the registration of the student as a Student-at-Law be cancelled.

**86** A Student-at-Law aggrieved by a decision of the Committee under Rule 84 (3) (c) (i) or Rule 84 (3) (c) (ii) may apply to the Board for a review of the decision.

**87**

(1) Where an allegation of misconduct, not being academic misconduct under Rule 82, is made against a Student-at-Law, the Executive Officer shall, unless he or she is of the view that the allegation is frivolous, put the allegation to the Student-at-Law and request the Student-at-Law to show cause in writing within 14 days why he or she should not be dealt with under Rule 88.

(2) The Executive Officer shall refer the allegation, and any response by the Student-at-

Law, to the Board.

**88**

- (1) The Board shall consider any allegation of misconduct referred to it by the Executive Officer under Rule 87 (2), and any response by the Student-at-Law, and may decide that:
  - (a) the allegation is not substantiated,
  - (b) the allegation is substantiated, but that no action should be taken in respect of the allegation, or
  - (c) an oral hearing should be held in respect of the allegation.
- (2) Where the Board decides that an oral hearing should be held, the procedure for the hearing shall be as close as practicable to the procedure set out in Part 10.
- (3) Where an oral hearing is held, the Board may, after considering the allegation, any response of the Student-at-Law, and any report of a hearing committee, decide that:
  - (a) the allegation is not substantiated,
  - (b) the allegation is substantiated but that no action should be taken in respect of the allegation, or
  - (c) the allegation is substantiated and that:
    - (i) the Student-at-Law be admonished or reprimanded, or
    - (ii) the registration of the student as a Student-at-Law be cancelled.

## **Part 10 Hearings**

- 89** Whenever the Board considers that an oral hearing of any matter before it is necessary or desirable or where an oral hearing is requested under Rule 34 or required under Rule 41, the President shall convene a hearing committee unless he or she considers that the hearing should be before the whole Board.
- 90** A hearing committee shall consist of one or more members nominated by the President. Where more than one person is nominated, the President shall also nominate a Chairperson.
- 91** The Chairperson of a hearing committee, or the sole member thereof, shall notify the applicant and all other persons entitled to participate in the hearing of the time and place of a preliminary conference at which directions will be given with respect to the hearing.
- 92** At the preliminary conference the Chairperson, or sole member of the hearing committee, shall give such directions as to the conduct of the oral hearing as he or she considers just.

**93**

- (1) The Chairperson or sole member of a hearing committee shall, within 10 days of any oral hearing, report to the Board in respect of the oral hearing.
- (2) The Board shall be entitled to take the report into consideration when determining the relevant application.

## **Part 11 Admission of legal practitioners**

### **Division 1 Qualification for admission**

#### **Qualifications for admission**

**94** A person is qualified for admission if he or she:

- (a) has satisfied the academic requirement for admission, and
- (b) has satisfied the practical training requirement for admission.

**95**

(1) The academic requirement for admission is completion of:

- (a) 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 and which is recognised in at least one Australian jurisdiction as a sufficient academic qualification for admission by the Supreme Court of that jurisdiction as a barrister, solicitor, barrister and solicitor, or legal practitioner, and
- (b) courses of study, whether as part of (a) or otherwise, which are recognised in at least one Australian jurisdiction, for the purposes of academic qualifications for admission by the Supreme Court of that jurisdiction as a barrister, solicitor, barrister and solicitor, or legal practitioner, as demonstrating understanding and competence in the following areas of knowledge:
  - Criminal Law and Procedure,
  - Torts,
  - Contracts,
  - Property both Real (including Torrens system land) and Personal,
  - Equity,
  - Administrative Law,
  - Federal and State Constitutional Law,
  - Civil Procedure,

- Evidence,
  - Company Law, and
  - Professional Conduct.
- (2) A synopsis of the areas of knowledge referred to in sub-rule (1) (b) is set out in the Fifth Schedule.
- (3) The academic courses conducted in New South Wales which are recognised as satisfying the requirements of sub-rule (1) are:
- (a) the Board's examinations as set out in rule 53, and
  - (b) the courses listed in the Second Schedule.

## 96

- (1) The practical training requirement for admission is completion of a course of training which is recognised in at least one Australian jurisdiction for the purposes of practical training qualifications for admission by the Supreme Court of that jurisdiction as a barrister, solicitor, barrister and solicitor, or legal practitioner.
- (2) The practical training courses which have been assessed by the Board and which are recognised in New South Wales as satisfying the requirements of sub-rule (1) are listed in the Fourth Schedule.

## Exemptions from admission requirements

### 97

- (1) A person who falls within one of the categories set out in sub-rule (2) may apply to the Academic Exemptions Sub-Committee for exemption from some or all of the examinations set out in rule 53.
- (2) The categories referred to in sub-rule (1) are:
- (a) persons who have undertaken studies towards meeting the academic requirements for admission in an Australian state or territory, but who have not completed those requirements,
  - (b) persons who have undertaken studies towards meeting the academic requirements for admission in a jurisdiction outside Australia, but who have not completed those requirements,
  - (c) persons who have completed the academic requirements for admission in a jurisdiction outside Australia, but who have not been admitted in that jurisdiction,
  - (d) persons who have completed the academic requirements for admission in a

jurisdiction outside Australia and who have been admitted in that jurisdiction, but who have not practised in that jurisdiction,

- (e) persons who have completed the academic requirements for admission in a jurisdiction outside Australia and who have been admitted in that jurisdiction, and who have practised in that jurisdiction.
- (3) The Academic Exemptions Sub-Committee may exempt a person who falls within category (a) of sub-rule (2) from undertaking any examination referred to in rule 53 if it is satisfied that the person has covered the substance of the subject matter of that examination in his or her earlier studies.
  - (4) The Academic Exemptions Sub-Committee may exempt a person who falls within category (b) of sub-rule (2) from undertaking any examination referred to in rule 53, if it is satisfied that the person has covered the substance of the subject matter of that examination in his or her earlier studies.
  - (5) Subject to sub-rule (6), the Academic Exemptions Sub-Committee may exempt a person who falls within category (c) or category (d) of sub-rule (2) from undertaking any or all of the examinations referred to in rule 53, if it is satisfied that the person has completed a course of study which is comparable in depth and scope with the course of study required for the examinations prescribed by rule 53.
  - (6) The Academic Exemptions Sub-Committee may not under sub-rule (5) exempt a person from undertaking an examination corresponding to any of the subject areas set out in rule 95 (1) unless it is satisfied that the person has covered the substance of the subject matter of that examination in his or her earlier studies.
  - (7) The Academic Exemptions Sub-Committee may exempt a person who falls within category (e) of sub-rule (2) from undertaking any examination referred to in rule 53 if it is satisfied, having regard to the person's academic qualifications, the system of law applicable in the jurisdiction in which the person has been admitted and practised, and the nature and extent of the person's practical experience, that he or she ought not be required to undertake that examination.
  - (8) The Academic Exemptions Sub-Committee may grant exemptions on such conditions as it thinks fit.
  - (9) Notwithstanding sub-rule 1 no Student-at-Law shall apply under this rule for any exemption arising from studies which he or she has undertaken after registering as a Student-at-Law unless he or she has obtained the prior approval of the Legal Qualifications Committee to so apply.
  - (10) An applicant for exemption under this rule shall apply in Form 16.
  - (11) A person aggrieved by a determination of the Academic Exemptions Sub-Committee under this rule may, within one month of the making of such determination, or within

such extended time as the Legal Qualifications Committee may allow, request the Legal Qualifications Committee to review that determination.

**98**

- (1) The Practical Training Exemptions Sub-Committee may exempt from the practical training requirement a person admitted as a lawyer in a foreign jurisdiction who satisfies the Committee that he or she has gained competencies substantially equivalent to those expected of a person who has successfully completed one of the practical training courses listed in the Fourth Schedule.
- (2) The Practical Training Exemptions Sub-Committee may exempt from the practical training requirement a person who has:
  - (a) attained the age of 30 years,
  - (b) completed either 7 years service as a New South Wales government, or government related, employee performing legal services or 15 years service in courts administration in New South Wales,
  - (c) satisfied the Board that the service has provided the person with adequate practical legal experience, and
  - (d) undertaken to the Board that the person will practise, as either a barrister or a solicitor, only within the Public Service of New South Wales until the person has completed 5 years of such practice.
- (3) The Practical Training Exemptions Sub-Committee may grant exemptions on such conditions as it thinks fit.
- (4) An applicant for exemption under this rule shall apply in Form 17 and shall provide a copy of the application to the New South Wales Bar Association and the Law Society of New South Wales.
- (5) A person aggrieved by a determination of the Practical Training Exemptions Sub-Committee under this rule may, within one month of the making of such determination, or within such extended time as the Legal Qualifications Committee may allow, request the Legal Qualifications Committee to review that determination.

## **Applications for admission**

**99**

- (1) An applicant for admission who has not previously been admitted as a lawyer in any jurisdiction shall apply in and to the effect of Form 10 and shall provide to the Board two certificates of character in and to the effect of form 3.
- (2) An applicant for admission who has previously been admitted as a lawyer in a



jurisdiction outside Australia and New Zealand shall apply in Form 11 and shall provide to the Board two certificates of character in and to the effect of form 3A.

- (3) An applicant for admission whose name has been ordered by the Court or by a disciplinary tribunal to be removed from the Roll of Barristers, the Roll of Solicitors or the Roll of Legal Practitioners in New South Wales shall apply for re-admission in Form 12 and shall provide a copy of his or her application to the New South Wales Bar Association and the Law Society of New South Wales.

**100-102 (Repealed)**

**Division 2 Application for admission**

**103-106 (Repealed)**

**Division 3 Approval**

**107**

- (1) Where the Board is satisfied that an applicant for admission is:

- (a) qualified for admission,
- (b) of good fame and character, and
- (c) fit and proper to be admitted,

it may:

- (d) approve the applicant as a suitable candidate for admission, and
- (e) issue a Certificate of Approval for Admission, in Form 13.

- (2) The Board may:

- (a) withhold approval until it has received further certificates, evidence or undertakings, or
- (b) give approval, and issue a Certificate of Approval for Admission, either unconditionally or subject to any conditions it considers appropriate.

**108** No person shall move the Court for admission, whether previously admitted elsewhere or not, unless the Board has issued a Certificate of Approval for Admission in respect of such person.

**Part 12 Fees**

**109**

- (1) The Board shall by resolution fix the fees to be charged for the matters referred to in these Rules.

(2) The Board shall once in each calendar year review the fees referred to in this Rule.

**110** Until the Board otherwise resolves, the fees to be charged are those set out in the Third Schedule.

**111**

- (1) The fees for examination, including late fees, shall be fixed from time to time by the Examinations Committee after it has made an estimate of the costs of conducting such examinations.
- (2) The examination fees shall be applied in such manner as the Examinations Committee may from time to time determine in payment of:
  - (a) the proper expenses of the examination,
  - (b) allowances to examiners, assistant examiners and revising examiners,
  - (c) the cost of preparing and publishing notes or text books for the use of the candidates,
  - (d) the cost of issuing Diplomas.

**112** The fee for admission shall be payable at the time of giving notice of intention to move for admission.

**113**

- (1) A person may apply to the Board to waive a fee payable under these Rules and the Board may, in its discretion, grant such application accordingly.
- (2) No fee is payable in respect of an application under this Rule.
- (3) In exercising its discretion under sub-rule (1) the Board may consider, inter alia, whether it believes that the circumstances cited by the applicant are of such compassionate significance that the Board's other applicants would be willing to pay a little more in order that the applicant be relieved of the burden of the fee.

## **Part 13 Miscellaneous**

**114**

- (1) A person who has passed an examination under the Barristers and Solicitors New Examination Rules or under the *Barristers and Solicitors Admission Rules 1989* shall be deemed to have passed the corresponding subject in the Board's Examinations.
- (2) For the purpose of this Rule:
  - (a) examinations in Commercial Law I and in Private International Law under the Barristers and Solicitors New Examination Rules shall be taken to correspond with

examinations in Commercial Transactions and in Conflict of Laws, respectively, under these Rules, and

- (b) an examination under the Barristers and Solicitors New Examination Rules in Commercial Law II shall be taken to correspond to both the examination in Law of Associations and the examination in Insolvency under these Rules.

### **115**

- (1) Any person who considers that he or she has suffered special prejudice as a result of the taking effect of these Rules or of the *Barristers and Solicitors Admission Rules 1989* may apply to the Board for relief of such special prejudice.
- (2) The Board may in its discretion grant any application under this Rule unconditionally, or on such conditions as are considered appropriate.

**116** The Board may delegate to its Presiding Member, a member, several members, the Executive Officer or any combination of the foregoing the making of a decision on any particular matter or class of matters provided always that a person who is aggrieved by a decision of a delegate may apply for a re-hearing by the Board.

### **First Schedule (Forms)**

FORM 1.	APPLICATION FOR REGISTRATION AS STUDENT-AT-LAW	RULE 30
FORM 2.	APPLICATION FOR REGISTRATION AS A PROBATIONARY STUDENT-AT-LAW	RULE 32
FORM 3.	CERTIFICATE OF CHARACTER	RULES 32, 103
FORM 4.	APPLICATION FOR DECLARATION OF CHARACTER	RULE 37
FORM 5.	RETURN OF PROFESSIONAL ASSOCIATION	RULE 40
FORM 6.	CERTIFICATE OF REGISTRATION AS A STUDENT-AT-LAW	RULE 79
FORM 7.	CERTIFICATE OF ADMISSION	RULE 79
FORM 8.	DIPLOMA IN LAW	RULE 80
FORM 9.	CERTIFICATE AS TO EXAMINATIONS PASSED (ACADEMIC RECORD)	RULE 81
FORM 10.	APPLICATION FOR ADMISSION AS A LEGAL PRACTITIONER (Local applicant)	RULE 103
FORM 11.	DECLARATION TO ACCOMPANY FORM 10	RULE 103
FORM 12.	STATUTORY DECLARATION RE NOTICE OF APPLICATION FOR ADMISSION	RULE 104
FORM 13.	CERTIFICATE OF ELIGIBILITY FOR ADMISSION	RULE 107
FORM 14.	APPLICATION FOR ADMISSION AS A LEGAL PRACTITIONER (Interstate, New Zealand or other overseas applicant)	RULE 104, 105, 106

## Second Schedule

<b>Name of accredited law school</b>	<b>Degree</b>
University of Sydney	LLB
University of New South Wales	LLB
Macquarie University	LLB* or BLeg S*
University of Technology, Sydney	LLB* or MLLP
University of Wollongong	LLB
University of New England	LLB*
Southern Cross University	LLB*
University of Newcastle	LLB
University of Western Sydney	LLB or MLP

\* Subject, with respect to admissions which occur after 31 December 1999, to completion, either within the degree program or separately, of one of the courses listed below:

<b>Name of institution</b>	<b>Course</b>
Legal Practitioners Admission Board	Legal Ethics
University of Sydney	Law, Lawyers and Justice
University of New South Wales	Law, Lawyers and Society
Macquarie University	Legal Ethics
	Legal Ethics A and Legal Ethics B OR
University of Technology, Sydney	Legal Accounting and Professional Responsibility OR Professional Conduct 2
	The Legal Profession and Australian Society OR Lawyers and Australian Society OR Lawyers and Legal Ethics
University of Wollongong	
University of New England	Legal Ethics and Professional Conduct
Southern Cross University	Professional Conduct
University of Newcastle	Professional Conduct
University of Western Sydney	The Legal Context OR Professional Conduct and Legal Ethics

College of Law

Academic/Practical course in Legal Ethics

### Third Schedule

	<b>Fee \$</b>
Student registration application	120
Rule 67 application	30
Student course application	30
Rule 71 review	30
Academic transcript	30
Interview with examiner	80
Examination	70
Additional fees—examination in unscheduled location in a single examination period, where permitted	
<i>NSW</i> first subject / additional subject	200 / 120
<i>Elsewhere in Australia</i> first subject / additional subject	250 / 150
<i>Overseas</i> first subject / additional subject	350 / 210
S13 application	120
Academic exemption application	140
Practical training exemption application	120
Admission application—Forms 10, 11	350
Re-admission application—Form 12	500
Certificate of admission—Form 7	30
Original diplomas and certificates	100
Late application (where permitted)	50
Other applications and certificates	30
Dishonoured cheques	30

### Fourth Schedule

College of Law: Professional Program

University of Newcastle: Diploma of Legal Practice

Australian National University: Legal Workshop

University of Wollongong: Practical Legal Training Course

Bond University: Professional Legal Training Program

University of Technology Sydney: Faculty of Law Professional Program OR Practical Legal Training Program OR Master of Law and Legal Practice

University of Western Sydney: Graduate Diploma in Legal Practice OR Master of Legal Practice (subject to completion of professional legal placement)

## **Fifth Schedule**

Although the topics below are grouped together 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 mentioned 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 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 area 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 schemes.

### **Contracts**

- 1** Formation, including capacity, formalities, privity and consideration.
- 2** Content and construction of contracts.
- 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 include 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 of 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 the 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** Judgment.
- 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.

**Professional conduct (including basis trust accounting)**

Professional and personal conduct in respect of practitioners' duty:

- (a) to the law,
- (b) to the Courts,
- (c) to clients, including a basic knowledge of the principles of trust accounting, 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 of trust accounting.

The aims of the trust account segment of Professional Conduct are:

- to impart an understanding of the legal requirements on solicitors for dealing with trust property,
- to help students obtain a level of competence in, and understanding of, the recording requirements for trust accounts and other trust dealings.

Areas covered should include:

- Provisions of the relevant State or Territory legislation governing the legal profession which relate to the handling of trust money and other trust property,
- Legislative provisions which enable the proper identification of trust moneys,
- The ramifications of breach of trust,
- An overview of trust accounting systems,
- Methods of maintaining trust account records. This includes class exercises in recording of receipts, payments and direct payments of trust moneys and of investments (including mortgage investments) by solicitors on behalf of their clients,
- A detailed study of any relevant legislation, regulations or rules relating to trust accounting.