

Legal Profession Uniform Continuing Professional Development (Barristers) Rules 2015

[2015-241]



New South Wales

Status Information

Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Editorial note**

The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-dashes (em-dashes). Text of the legislation is not affected.

This version has been updated.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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1 Citation

These Rules are designated as Continuing Professional Development Rules and may be cited as the *Legal Profession Uniform Continuing Professional Development (Barristers) Rules 2015*.

2 Commencement

These Rules come into operation on 1 July 2015.

3 Objective

The objective of these Rules is to set out provisions contemplated by the Uniform Law relating to continuing professional development for barristers.

4 Authorising provision

These Rules are made under Part 9.2 of the Uniform Law or under other provisions of the Uniform Law, as specified in the relevant rule.

5 Definitions

In these Rules—

CPD means continuing professional development.

CPD activity means an activity which meets the requirements of rules 6 and 6A.

CPD point means a point allocated to a CPD activity under these Rules.

CPD program means a seminar, course or other activity that satisfies rule 6 and includes the Bar CPD program.

CPD year begins on 1 April.

Designated local regulatory authority means a person or body specified or described in jurisdictional legislation as the relevant designated local regulatory authority for the purposes of section 44 of the Uniform Law.

Uniform Law means the Legal Profession Uniform Law as applied in a participating jurisdiction.

6 CPD content

- (1) CPD activities must be—
 - (a) of significant intellectual or practical content and must deal primarily with matters related to the practice of law, and
 - (b) conducted by persons who are qualified by practical or academic experience in the subject covered, and
 - (c) relevant to the barrister's professional development needs in relation to the barrister's practice of the law.
- (2) Individual barristers are responsible for ensuring that the CPD activity in question meets the CPD criteria, set out in rule 6(1), before claiming CPD points for that CPD activity.
- (3) Each designated local regulatory authority has the power to make policies pertaining to these Rules including—
 - (a) the power to impose a cap on the points that may be gained in any one CPD activity,
 - (b) the format of CPD activity,
 - (c) the audit process,
 - (d) the rectification plans for non-compliance.

6A CPD format

A CPD activity may consist of—

- (a) a seminar, workshop, lecture, conference, discussion group, multimedia or web-based program, private study of audio/visual material or any other educational activity, or
- (b) the research, preparation or editing by a barrister of—
 - (i) an article published in a legal publication (including a loose-leaf service), or
 - (ii) a legal article published in a non-legal publication, or
 - (iii) a book related to the law, or

- (iv) a law report, or
- (c) the preparation and/or presentation by a barrister of written or oral material to be used in a CPD activity or in other forms of education provided to barristers and/or to other professionals and/or to other persons including those undertaking practical or supervised legal training, or
- (d) membership of a committee, working group, taskforce or practice section of a professional association or designated local regulatory authority or the Australian Bar Association or the Law Council of Australia or of other committees, provided that the barrister regularly attends its meetings, or
- (e) postgraduate studies relevant to the practice of law, or
- (f) the writing or marking of examinations conducted by a professional association or designated local regulatory authority for the purposes of admission of persons to the practice of a barrister, or
- (g) the preparation and/or presentation by a barrister of written or oral material to be used in a course conducted by a professional association or designated local regulatory authority for persons intending to commence the practice of a barrister, or
- (h) any other activity approved by the designated local regulatory authority.

7 CPD point

One CPD point is earned for each completed hour of engagement in a CPD activity.

8 Annual requirements

- (1) Unless exempted in whole or in part by the designated local regulatory authority under rule 13, or unless a pro rata calculation applies under this rule, a barrister must in each CPD year engage in CPD activities sufficient to earn at least ten CPD points.
- (2) Barristers who commence or recommence practice after the start of the CPD year may have their CPD requirement proportionately reduced in accordance with the following table—

Practising certificate issued in—

- | | |
|--------------|--------------------|
| (a) January | 1 point required |
| (b) February | 0 points required |
| (c) March | 0 points required |
| (d) April | 10 points required |

| | |
|---------------|-------------------|
| (e) May | 9 points required |
| (f) June | 8 points required |
| (g) July | 7 points required |
| (h) August | 6 points required |
| (i) September | 5 points required |
| (j) October | 4 points required |
| (k) November | 3 points required |
| (l) December | 2 points required |

9 Categories of CPD

(1) A barrister must, unless otherwise exempted, in each CPD year engage in CPD activities in each of the categories set out below—

- (a) Ethics and Professional Responsibility,
- (b) Practice Management and Business Skills,
- (c) Substantive Law, Practice and Procedure, and Evidence,
- (d) Barristers' Skills.

(2) These categories are subject to any requirement of the designated local regulatory authority or legislation.

10 If the designated local regulatory authority or the person or organisation who conducts a CPD activity has assigned a particular CPD activity to one or more of the categories identified, a barrister who participates in that CPD activity may not assign CPD points in respect of that activity to any other category. In any other case, a barrister may assign CPD points to any category that the barrister reasonably considers to be appropriate.

11 Additional CPD for new barristers

The designated local regulatory authority may, in addition, require that a barrister within the first three years of practice undertake additional CPD activities as determined, from time to time, by the designated local regulatory authority. This may include CPD activities specifically directed to new barristers.

12 Records

A barrister must maintain a record of engagement in CPD activities for the CPD year in the form provided by the designated local regulatory authority and must retain such record for at least three years after the CPD year in which they engaged in those activities.

13 Exemptions

- (1) On application by a barrister, the designated local regulatory authority may exempt the barrister in whole or in part from any requirement to undertake CPD activities imposed by these Rules.
- (2) An application for exemption—
 - (a) must be in writing, and
 - (b) if made in respect of the current CPD year, must be made as early as practicable in that year and, in any event, not less than one month before the end of that year, and
 - (c) if made in respect of a previous CPD year, must be made within 21 days after the barrister becomes aware of his or her non-compliance with the relevant requirement to undertake CPD activities.
- (3) The designated local regulatory authority may consider an application made outside the time periods referred to in rule 13(2), if the designated local regulatory authority considers that there are special circumstances.
- (4) Without limiting the grounds on which the designated local regulatory authority may grant an exemption, an exemption may be granted on the following grounds—
 - (a) illness or disability,
 - (b) the absence of the barrister from practice for example due to parenting leave,
 - (c) hardship or other special circumstances.

14 Certification

At the same time as applying for renewal of their local practising certificates, barristers must certify to the designated local regulatory authority whether they have complied with these Rules in respect of the CPD year just ended.

15 Audit and verification

- (1) The designated local regulatory authority may conduct an audit to monitor compliance by a barrister with these Rules.
- (2) The designated local regulatory authority may require a barrister to verify within 21

days whether or not they have complied with these Rules, by—

(a) producing to the designated local regulatory authority—

(i) any records required to be kept under rule 12,

(ii) any other records in the barrister's possession or control that are relevant to the barrister's compliance with these Rules,

(b) giving the designated local regulatory authority—

(i) a statement of the barrister's reasons for claiming that any activities undertaken by the barrister satisfy any requirements for CPD activity under these Rules,

(ii) particulars of any exemption granted under these Rules.

(3) Such a requirement of the designated local regulatory authority may be given to a barrister only in relation to the current CPD year or any of the three previous CPD years.

16 Rectification

The designated local regulatory authority may give a written notice to a barrister who has—

(a) certified he or she did not comply with these Rules, or

(b) complied with verification requirements but the designated local regulatory authority is not satisfied the practitioner has complied with these Rules, or

(c) failed to comply with the certification or the verification requirements,

requiring him or her to submit a plan to the designated local regulatory authority within 21 days setting out the steps he or she intends to take to rectify the non-compliance.

17 Transitional provisions

If a barrister completes any activity in the period 1 April 2015 to the commencement date of these Rules, and that activity complies with these Rules, that activity can be counted towards the barrister's 2015/2016 CPD points requirement.