

Legal Profession Uniform Continuing Professional Development (Solicitors) Rules 2015

[2015-242]



New South Wales

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Provisions in force

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

Authorisation

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1 Citation

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

2 Commencement

2.1 These Rules come into operation on 1 July 2015.

3 Objective

3.1 The objective of these Rules is to provide the minimum requirements for continuing professional development for solicitors.

4 Authorising provisions

4.1 These Rules were developed by the Law Council of Australia in accordance with section 427 of the Legal Profession Uniform Law and are made by the Legal Services Council under Part 9.2 of that Law.

5 Definitions

5.1 In these Rules:

CPD means continuing professional development.

CPD activity means an activity which meets the requirements of rule 7 (CPD content) and rule 8 (CPD format).

CPD unit has the meaning given by rule 9 (CPD units).

CPD year means the year beginning on 1 April and ending on 31 March the following year.

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 obligations

6.1 Unless exempted in whole or in part by the designated local regulatory authority under rule 16 (Exemptions), or unless a pro rata calculation applies under rule 10 (Pro rata calculations), a solicitor must complete 10 CPD units in each CPD year including at least one CPD unit in each of the following fields:

6.1.1 ethics and professional responsibility,

6.1.2 practice management and business skills,

6.1.3 professional skills,

6.1.4 substantive law.

6.2 Where a part exemption under rule 16 (Exemptions) or a pro rata calculation under rule 10 (Pro rata calculations) applies the compulsory fields must be completed as part of the remaining CPD units.

7 CPD content

7.1 Each CPD activity undertaken by a solicitor must be an activity:

7.1.1 of significant intellectual or practical content and must deal primarily with matters related to the solicitor's practice of law, and

7.1.2 conducted by persons who are qualified by practical or academic experience in the subject covered, and

7.1.3 that extends the solicitor's knowledge and skills in areas that are relevant to the solicitor's practice needs or professional development.

8 CPD format

8.1 A CPD activity may consist of:

8.1.1 a seminar, workshop, lecture, conference, discussion group, multimedia or web-based program, private study of audio/visual material or any other educational activity, or

8.1.2 the research, preparation or editing by a solicitor of:

8.1.2.1 an article published in a legal publication, or

8.1.2.2 a legal article published in a non-legal publication, or

8.1.2.3 published Law Reports or other legal services, or

8.1.3 the preparation and/or presentation by a solicitor of written or oral material to be used in a CPD activity or in other forms of education provided to solicitors and/or to other professionals and/or to other persons including those undertaking practical or supervised legal training, or

8.1.4 membership of a committee, taskforce or practice section of a professional association, designated local regulatory authority or the Law Council of Australia or of other committees, provided that the solicitor regularly attends its meetings, if the work performed on the committee, taskforce or practice section is of substantial significance to the practice of law and is reasonably likely to assist the solicitor's professional development, or

8.1.5 postgraduate studies relevant to a solicitor's practice needs.

8.2 Private study does not constitute CPD activity for the purpose of these Rules unless it involves the private study of audio/visual material specifically designed for the purpose of updating a solicitor's knowledge and/or skills relevant to his/her practice needs.

9 CPD units

9.1 CPD unit means:

9.1.1 in relation to a CPD activity referred to in rule 8.1.1, 8.1.3 and 8.1.5, one hour of the activity,

9.1.2 in relation to a CPD activity referred to in rule 8.1.2, 1000 words of the article,

9.1.3 in relation to a CPD activity referred to in rule 8.1.4, two hours of the activity.

9.2 In calculating the relevant CPD units of CPD activity in respect of a CPD year, the total must not include:

9.2.1 more than 5 CPD units of CPD activity referred to in rule 8.1.2,

9.2.2 more than 5 CPD units of CPD activity referred to in rule 8.1.3,

9.2.3 more than 3 CPD units of CPD activity referred to in rule 8.1.4,

9.2.4 more than 5 CPD units of CPD activity referred to in rule 8.2.

9.3 Solicitors who successfully complete a specialist accreditation assessment process will be deemed to have completed 10 CPD units in the year of their completion.

10 Pro rata calculations

10.1 A solicitor who commences or recommences legal practice on or after the start of a CPD year must complete on a pro rata basis during the balance of the CPD year such CPD units as are set out below:

| Renewal month | CPD units |
|----------------------|------------------|
| April | 10 |
| May | 9 |
| June | 8 |
| July | 7 |
| August | 6 |
| September | 5 |
| October | 4 |
| November | 3 |
| December | 2 |
| January | 1 |
| February | 0 |
| March | 0 |

11 Application of CPD units to the following CPD year

11.1 A maximum of 3 CPD units accrued in the period 1 January to 31 March in any CPD year may be carried forward into the following CPD year but can only be counted in one CPD year.

12 Record keeping

12.1 A solicitor must maintain for each CPD year:

12.1.1 a record of his or her engagement in CPD activities, and

12.1.2 evidence in support of the CPD activities undertaken.

12.2 A solicitor must retain the information referred to in rule 12.1.1 and the evidence in support referred to in rule 12.1.2 for at least three years after the end of the CPD year to which the CPD record and evidence in support relate.

13 Annual certification of CPD activities

13.1 At the same time as applying for renewal of his or her practising certificate, a solicitor must certify to the designated local regulatory authority whether the solicitor

has complied with these Rules in respect of the CPD year last ended.

14 Verification of CPD activities

14.1 The designated local regulatory authority may at any time require a solicitor to verify within 21 days whether he or she has complied with these Rules by:

14.1.1 producing to the designated local regulatory authority:

14.1.1.1 any records required to be kept by the solicitor under these Rules, and

14.1.1.2 any other evidence in the solicitor's possession or control that are relevant to the solicitor's compliance with these Rules, and

14.1.2 giving the designated local regulatory authority:

14.1.2.1 a statement of the solicitor's reasons for claiming that any activities undertaken by the solicitor satisfy any requirement for CPD activities under these Rules, and

14.1.2.2 particulars of any exemption granted by the designated local regulatory authority under these Rules.

14.2 A requirement of the designated local regulatory authority under this rule may be given to a solicitor only in relation to the current CPD year or any of the three previous CPD years.

15 Rectification of non-compliance

15.1 This rule applies if:

15.1.1 a solicitor certifies under rule 13 (Annual certification of CPD activities) that he or she has not complied with these Rules, or

15.1.2 a solicitor complies with a requirement under rule 14 (Verification of CPD activities) and the designated local regulatory authority is not satisfied that the solicitor has complied with these Rules, or

15.1.3 a solicitor fails to comply with rule 13 (Annual certification of CPD activities) or rule 14 (Verification of CPD activity).

15.2 The designated local regulatory authority may give written notice to the solicitor requiring him or her to submit a plan to the designated local regulatory authority within 21 days setting out the steps that the solicitor intends to take to rectify the non-compliance within 90 days after the plan is submitted to the designated local regulatory authority.

15.3 A solicitor must comply with a notice given to him or her under rule 15.2 and with a plan submitted to the designated local regulatory authority under that rule.

15.4 A notice of the designated local regulatory authority under this rule may only be given to a solicitor in relation to the current CPD year or any of the three previous CPD years.

15.5 The designated local regulatory authority shall have discretion to allow solicitors every opportunity to rectify any failure to comply, or if appropriate, apply for exemption.

16 Exemptions

16.1 On application by a solicitor, the designated local regulatory authority may exempt the solicitor in whole or in part from any requirement to undertake CPD activities imposed by these Rules.

16.2 An application for exemption must be in writing.

16.3 Without limiting the grounds on which the designated local regulatory authority may grant an exemption, an exemption may be granted in whole or in part on the following grounds:

16.3.1 illness or disability,

16.3.2 the location of the solicitor's legal practice,

16.3.3 the absence of the solicitor from legal practice for example due to parenting leave or unemployment,

16.3.4 the solicitor has reduced hours of practice owing to part time or casual employment,

16.3.5 the solicitor's circumstances are such that the solicitor is required to hold a practising certificate but is not engaged in legal practice,

16.3.6 the solicitor has been in practice for a period exceeding 40 years and does not practise as a principal,

16.3.7 hardship or other special circumstances.

16.4 Exemptions relating to rule 16.3.3, 16.3.4 and 16.3.5 will generally be granted on a pro rata basis.

16.5 The designated local regulatory authority may impose any conditions it thinks appropriate on an exemption under this rule.

16.6 A solicitor must comply with any conditions imposed on an exemption under this rule.