

TASMANIA

**LEGAL PROFESSION (BOARD OF LEGAL
EDUCATION) RULES 2021**

STATUTORY RULES 2021, No. 40

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LEGAL PROFESSION (BOARD OF LEGAL EDUCATION) RULES 2021

The Board of Legal Education makes the following rules under the *Legal Profession Act 2007*.

PART 1 – PRELIMINARY

1. Short title

These rules may be cited as the *Legal Profession (Board of Legal Education) Rules 2021*.

2. Commencement

These rules take effect on 23 June 2021.

3. Interpretation

In these rules –

Act means the *Legal Profession Act 2007*;

admission means admission within the meaning of Part 2.2 of Chapter 2 of the Act;

admitting authority means the authority responsible for determining whether an application for admission to the legal profession in that jurisdiction has satisfied the requirements for admission in that jurisdiction;

applicant means an applicant within the meaning of Part 2.2 of Chapter 2 of the Act;

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approved academic institution means an academic institution approved under rule 5;

approved academic qualification means an academic qualification approved under rule 4;

approved practical legal training provider means a practical legal training provider approved under rule 9;

approved practical legal training requirement means a practical legal training requirement approved under rule 7;

Board means the Board of Legal Education within the meaning of the Act;

LACC means the Law Admissions Consultative Committee responsible to the Council of Chief Justices of Australia and New Zealand;

local applicant means a person who –

- (a) has not previously been admitted to the legal profession in a jurisdiction in Australia; and
- (b) submits an application for admission on the basis of academic qualifications and practical legal training obtained wholly, or principally, in Australia;

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overseas practitioner applicant means an applicant who –

- (a) is admitted to the legal profession in a jurisdiction other than Australia; and
- (b) at the time of application for admission under the Act, is entitled to practise as a legal practitioner in a jurisdiction outside Australia;

qualified overseas applicant means an applicant who –

- (a) has not previously been admitted to the legal profession in a jurisdiction; and
- (b) submits an application for admission on the basis of academic qualifications and practical legal training obtained wholly, or principally, outside of Australia.

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Part 2 – Rules Relating to Admission of Local Applicants

**PART 2 – RULES RELATING TO ADMISSION OF
LOCAL APPLICANTS**

Division 1 – Academic requirements for admission

4. Approved academic qualifications

- (1) For the purposes of section 25 of the Act, the academic qualification approved for admission to the legal profession in Tasmania is the successful completion of –
- (a) a tertiary course of study, whether or not leading to a qualification in law, that –
 - (i) is provided by an approved academic institution; and
 - (ii) includes the equivalent of at least three years of full-time study of law; and
 - (iii) requires the person undertaking the course to acquire and demonstrate a satisfactory level of knowledge of, and competence in, the areas of academic knowledge specified in Schedule 1; or
 - (b) a tertiary course of study, whether or not leading to a qualification in law, that, in the opinion of the Board –
 - (i) would qualify the applicant for admission to the legal profession

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in a jurisdiction other than Tasmania; and

(ii) is substantially the same as that approved for admission in this jurisdiction.

(2) The Board may determine that a local applicant has the approved academic qualification without satisfying the requirements specified in subrule (1) if the Board is satisfied that the applicant has acquired and demonstrated a satisfactory level of understanding of, and competence in, the areas of knowledge specified in Schedule 1.

(3) If a local applicant completed the requirements specified in subrule (1) or (2) more than 5 years immediately before the day on which the applicant lodged an application under rule 11, the Board may, after assessing the applicant's academic qualifications –

(a) require the applicant to successfully complete one or more of the following as the Board may determine:

(i) further academic qualification;

(ii) further academic study;

(iii) further examination; or

(b) make a determination that the applicant's academic qualification is an approved academic qualification for the purposes of these rules.

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- (4) The Board, in assessing a local applicant's academic qualifications for the purposes of subrule (3), may consider any matter specified in Schedule 2 as it relates to the applicant's academic qualification.

5. Approved academic institution

- (1) Each of the following is an approved academic institution for the purposes these rules:
- (a) a tertiary institution designated, by notice in writing to the academic institution, by the Board as an approved academic institution;
 - (b) an institution recognised by another jurisdiction in Australia as providing a tertiary course of study which, to the Board's satisfaction –
 - (i) satisfies the academic requirements for admission to the legal profession in the other jurisdiction; and
 - (ii) requires the person undertaking the tertiary course of study to acquire and demonstrate a satisfactory level of knowledge of, and competence in, the areas of academic knowledge specified in Schedule 1; and

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- (iii) is substantially the same as that approved for admission in this jurisdiction.
 - (2) The Board may, by notice in writing to an approved academic institution –
 - (a) withdraw the Board’s approval of that academic institution; or
 - (b) impose a condition on the Board’s approval of that academic institution; or
 - (c) vary or revoke a condition imposed by the Board.

6. Monitoring and review of approved academic institution

- (1) The Board may monitor and review –
 - (a) the performance of, and the resources available to, an approved academic institution in providing all, or part of, a course of study; and
 - (b) the content and conduct of all, or part of, a course of study or a subject provided by the approved academic institution.
- (2) For the purposes of monitoring and review under subrule (1), the Board –
 - (a) is to consult with the approved academic institution subject of the review; and

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- (b) may appoint one or more persons to conduct a review of –
 - (i) a course of study; or
 - (ii) a subject in the course of study provided by the academic institution; and
 - (c) may determine the terms of reference for the review.
- (3) If, under subrule (1), the Board conducts a review of an approved academic institution –
- (a) the institution subject of the review –
 - (i) must provide to the Board such information as requested by the Board for the purposes of the review; and
 - (ii) is to pay to the Board the reasonable costs incurred by the Board for the purposes of the review; and
 - (b) the Board –
 - (i) may request such information as required by the Board for the purposes of the review; and
 - (ii) must provide the institution with a copy of a report prepared by, or received by, the Board as a result of the review; and

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- (iii) may impose, on the institution subject of the review, a charge for reasonable costs incurred by the Board in undertaking the review.

Division 2 – Practical legal training requirements for admission

7. Approved practical legal training requirements

For the purposes of section 25 of the Act, the practical legal training approved for admission to the legal profession in Tasmania is –

- (a) successful completion of practical legal training that –
 - (i) is provided by an approved practical legal training provider; and
 - (ii) in the opinion of the Board, results in a participant in the training acquiring and demonstrating a satisfactory level of knowledge of, and competence in, the skills, values and practice areas specified in Schedule 3; or
- (b) successful completion of practical legal training that, in the opinion of the Board –
 - (i) would qualify the person who completed the practical legal training for admission to the legal

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profession in an Australian jurisdiction other than Tasmania; and

- (ii) results in a participant in the training acquiring and demonstrating a satisfactory level of knowledge of, and competence in, the skills, values and practice areas specified in Schedule 3; and
- (iii) is substantially the same as that approved for admission in this jurisdiction.

8. Commencement and duration of practical legal training

(1) In this rule –

integrated program means a program of study that has integrated or combined the components of –

- (a) an approved academic qualification; and
- (b) an approved practical legal training requirement;

programmed training means structured and supervised training activities, research and tasks with comprehensive assessment;

workplace experience means supervised employment in a law or law-related work

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environment or equivalent unpaid engagement in such an environment.

- (2) A person is eligible to commence approved practical legal training in a program that is not an integrated program, if –
- (a) the person has successfully completed an academic qualification approved for admission to the legal profession in Tasmania; or
 - (b) the person is –
 - (i) enrolled in an academic qualification and has no more than 2 academic subjects remaining to be completed in that academic qualification; and
 - (ii) the 2 academic subjects referred to in subparagraph (i) are not areas of academic knowledge specified in Schedule 1; and
 - (iii) the person submits an application to the Board for permission, and the Board grants such permission, to commence the practical training requirement.
- (3) A person is eligible to commence an integrated program that –
- (a) requires the equivalent of 3 years' full-time academic study of law, not including the time required to undertake

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- the practical legal training components of the program; and
- (b) has been recognised by the Board as providing an academic qualification and practical legal training for the purposes of admission to the legal profession.
- (4) Practical legal training approved for admission to the legal profession in Tasmania is to include programmed training and workplace experience of at least –
- (a) if the practical legal training is undertaken as a program of academic study at graduate diploma level, 900 practical legal training hours, of which at least 90 hours are workplace experience; or
- (b) if the practical legal training is undertaken as a non-award training course, 900 practical legal training hours, of which at least 450 hours are programmed training and 90 hours is workplace experience; or
- (c) if the practical legal training is undertaken as distance training or in electronic form, 450 hours of computing time.
- (5) Nothing in these rules –
- (a) prevents an approved practical legal training provider from providing practical legal training of a duration

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- period that exceeds the minimum practical legal training specified in subrule (4); or
- (b) invalidates the person’s practical legal training if the person completed practical legal training hours in excess of the minimum practical legal training specified in subrule (4).
- (6) If a local applicant completed the requirements specified in rule 7 more than 5 years immediately before the day on which the applicant lodged an application under rule 11, the Board may, after assessing the applicant’s practical legal training requirement –
- (a) require the applicant to successfully complete such further practical legal training as the Board may determine; or
- (b) make a determination that the applicant’s practical legal training is an approved practical legal training requirement for the purposes of these rules.
- (7) The Board, in assessing a local applicant’s practical legal training requirement for the purposes of subrule (6), may consider any matter specified in Schedule 2 as it relates to the applicant’s practical legal training requirement.

9. Approved practical legal training provider

- (1) The Board may, by notice in writing to a practical legal training provider, approve the

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practical legal training provider for the purpose of providing an approved practical legal training requirement, if the Board is satisfied that –

- (a) the practical legal training provider is appropriately resourced to provide the practical legal training requirement; and
 - (b) the practical legal training provider will competently conduct the practical legal training requirement.
- (2) For the purposes of subrule (1)(b), practical legal training is competently conducted if a participant in the training acquires and demonstrates as part of the training a satisfactory level of knowledge of, and competence in, the skills, values and practice areas specified in Schedule 3.
- (3) The Board may, by notice in writing to an approved practical legal training provider –
- (a) withdraw the Board’s approval of that practical legal training provider; or
 - (b) impose a condition on the Board’s approval of the provider; or
 - (c) vary or revoke a condition imposed by the Board.

10. Monitoring and review of approved practical legal training provider

- (1) The Board may monitor and review –

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- (a) the performance of, and the resources available to, an approved practical legal training provider; and
 - (b) the content and conduct of the practical legal training course, or part of the course, provided by the approved practical legal training provider.
- (2) For the purposes of monitoring and review under subrule (1), the Board –
- (a) is to consult with the approved practical legal training provider subject of the review; and
 - (b) may appoint one or more persons to conduct a review of –
 - (i) the practical legal training course; or
 - (ii) a subject in the course conducted by the provider; and
 - (c) may determine the terms of reference for the review.
- (3) If, under subrule (1), the Board conducts a review of an approved practical legal training provider –
- (a) the provider subject of the review –
 - (i) must provide to the Board, or its reviewer as the Board, such information as requested by the

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Board for the purposes of the review; and

(ii) is to pay the reasonable costs incurred by the Board for the purposes of the review; and

(b) the Board –

(i) may request such information as required by the Board for the purposes of the review; and

(ii) must provide the provider with a copy of a report prepared by, or received by, the Board as a result of the review; and

(iii) may impose on the provider a charge for reasonable costs incurred by the Board in conducting the review.

Division 3 – Application for admission

11. Application for Board certificate

(1) A local applicant may apply to the Board to certify that the applicant has successfully completed –

(a) an approved academic qualification; and

(b) approved practical legal training.

(2) A local applicant may apply to the Board for a certificate recommending to the Supreme Court

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that the applicant be exempted, under section 25(4) of the Act, from the requirements of section 25(1)(a) or (b) of the Act, or both.

- (3) An application under subrule (1) or (2) must include, or be accompanied by, the –
 - (a) relevant documentation referred to in rule 12; and
 - (b) the fee payable under rule 23(1)(a).

12. Documentation in support of application

- (1) In relation to an academic qualification, a person applying for a certificate of the Board under subrule (1) or (2), must give to the Board –
 - (a) a certificate from the approved academic institution that the applicant has successfully completed a tertiary course of study required by rule 4(1); or
 - (b) if the applicant seeks a determination by the Board under rule 4(2), evidence that the applicant has acquired and demonstrated a satisfactory level of knowledge of, and competence in, the areas of academic knowledge specified in Schedule 1; or
 - (c) if the applicant relies on successful completion of a course of study, or subject, in another Australian jurisdiction, a certificate from the admitting authority in that jurisdiction

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that the course of study or subject completed by the applicant is recognised for the purposes of admission to the legal profession in that jurisdiction.

- (2) In relation to practical legal training, a person applying for a certificate of the Board under subrule (1) or (2), must give to the Board –
- (a) a certificate from the practical legal training provider stating that the local applicant successfully completed practical legal training as required by rule 7(a); or
 - (b) if the applicant relies on practical legal training referred to in rule 7(b), a certificate from –
 - (i) the practical legal training provider stating that the applicant successfully completed the practical legal training; and
 - (ii) the admitting authority in that jurisdiction stating that the successful completion referred to in subparagraph (i) is recognised for the purposes of admission to the legal profession in that jurisdiction.
- (3) The Board may request a person applying for a certificate of the Board under subrule (1) or (2), give to the Board –

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- (a) certificates or other documentary information that the Board requires and that, in the opinion of the Board, is relevant to the application; and
 - (b) an affidavit in support of the applicant's application verifying such certificates or other documentary information provided.
- (4) If, under subrule (3), the Board requests further certificates or other documentary information, the person to whom the request is made must, if practicable, cause the certificate or other documentary information so requested to be provided directly to the Board by the academic institution, authority or practical legal training provider that provides or issues the certificate or other documentary information.

13. Determination of application

If the Board receives an application under rule 11, the Board must –

- (a) if satisfied that the person making the application has the approved academic qualification and approved practical legal training requirement under these rules for admission to the legal profession in Tasmania, issue to the applicant a certificate under rule 11; or
- (b) if satisfied that the person making the application does not have the approved academic qualification or approved practical legal training requirement under

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these rules for admission to the legal profession in Tasmania, refuse to issue to the applicant a certificate under rule 11.

**PART 3 – RULES RELATING TO ADMISSION OF
OVERSEAS APPLICANTS**

Division 1 – Preliminary

14. Interpretation

In this Part –

overseas applicant, means a qualified overseas applicant or an overseas practitioner applicant.

Division 2 – Qualified overseas applicant

15. Qualifications for admission of qualified overseas applicant

The requirements for a qualified overseas applicant to be admitted to the legal profession in Tasmania are –

- (a) successful completion of an academic qualification in a jurisdiction outside of Australia, other than any requirements in that jurisdiction which the Board is satisfied are of a formal or procedural nature; and
- (b) unless the Board determines otherwise in a particular case, successful completion of practical legal training recognised in a jurisdiction outside of Australia, other than any requirements in that jurisdiction which the Board is satisfied are of a formal or procedural nature; and

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- (c) compliance with a direction given under rule 21; and
- (d) sufficient knowledge of written and spoken English to engage in legal practice in Tasmania.

16. Application for directions – qualified overseas applicant

- (1) A person who intends to apply for admission to the legal profession in Tasmania must apply to the Board for directions under rule 21 as to the extent, if any, to which the applicant's existing academic qualification and practical legal training, as a qualified overseas applicant, may be regarded as sufficient for admission, without meeting further academic qualification and practical legal training requirements.
- (2) An application by a qualified overseas applicant under subrule (1) must include, or be accompanied by, the fee payable under rule 23(1)(b).
- (3) Unless the Board determines otherwise, an application by a qualified overseas applicant under subrule (1) must be accompanied by an affidavit –
 - (a) stating the nature and details of the applicant's academic qualification and practical legal training; and
 - (b) including supporting evidence that the applicant –

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- (i) has the academic qualification and practical legal training on which the applicant relies; and
 - (ii) meets all requirements for admission in the jurisdiction in which the applicant obtained the academic qualification and practical legal training; and
 - (iii) has met other formal or procedural requirements, if any; and
- (c) including supporting evidence that the applicant has sufficient knowledge of written and spoken English to engage in legal practice in Tasmania; and
 - (d) stating whether the applicant has applied for admission in another Australian jurisdiction and if so, the result of that application; and
 - (e) including additional information the Board requires or has requested.

Division 3 – Overseas practitioner applicant

17. Qualifications for admission of overseas practitioner applicant

The requirements for an overseas practitioner applicant to be admitted to the legal profession in Tasmania are –

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- (a) compliance with a direction given under rule 21; and
- (b) sufficient knowledge of written and spoken English to engage in legal practice in Tasmania.

18. Application for directions – overseas practitioner applicant

- (1) A person who intends to apply for admission to the legal profession in Tasmania must apply to the Board for directions under rule 21 as to the extent, if any, to which the applicant's existing qualifications, as an overseas practitioner applicant, may be determined by the Board to be sufficient qualifications for admission, without meeting further academic qualification and practical legal training requirements.
- (2) An application by an overseas practitioner applicant under subrule (1) must include, or be accompanied by, the fee payable under rule 23(1)(b).
- (3) Unless the Board determines otherwise, an application by an overseas practitioner applicant under subrule (1) must be accompanied by an affidavit –
 - (a) stating the nature and details of the applicant's academic qualifications, practical legal training and practical experience; and

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- (b) including supporting evidence that the applicant has the academic qualification any practical legal training qualification on which the applicant relies; and
- (c) including supporting evidence that the applicant has sufficient knowledge of written and spoken English to engage in legal practice in Tasmania; and
- (d) including details of the applicant's admission in the overseas jurisdiction on the basis of which the applicant is seeking admission to the legal profession in Tasmania; and
- (e) stating that all conditions, if any, imposed on the applicant's admission by the admitting authority in the overseas jurisdiction or elsewhere have been satisfied; and
- (f) stating that the applicant –
 - (i) is currently entitled to practise in the legal profession in the overseas jurisdiction or elsewhere; and
 - (ii) has not been struck off the roll of practitioners in the overseas jurisdiction or elsewhere; and
 - (iii) is not presently subject to disciplinary inquiry or proceedings in the overseas jurisdiction or elsewhere; and

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- (g) stating the nature, range and character of the applicant’s practice in the legal profession in the overseas jurisdiction or elsewhere; and
- (h) stating whether the applicant has applied for admission in any other Australian jurisdiction and, if so, the result of the application; and
- (i) including additional information the Board requires or has requested.

Division 4 – Consideration of application

19. Inquiries by Board

The Board may, in relation to an application under rule 16 or 18 for directions, make inquiries that it thinks fit in relation to –

- (a) the system of jurisprudence of the overseas jurisdiction, in which the overseas applicant has obtained the relevant qualifications or has been admitted to the legal profession, that forms the basis on which the applicant seeks the Board’s directions under rule 21; and
- (b) the nature and adequacy of the overseas applicant’s academic qualifications, practical legal training and experience in the practice of law, if any.

20. Board may act on advice

- (1) For the purpose of making inquiries under rule 19, the Board may take into account one or more of the following:
 - (a) the written advice of the dean or head of a Department of Law at an approved academic institution;
 - (b) a report of a member of, or committee appointed by, the Board;
 - (c) a report of an admitting authority in another Australian jurisdiction, or of a committee, body or person to which such an authority refers like matters for assessment.

- (2) For the purpose of deciding whether a subject or training provides an understanding of, and competence in, an area of knowledge or skills, values and practice, or in a topic which is part of an area of knowledge or skills, values and practice, the Board may take into account one or more of the following:
 - (a) the advice of the dean or head of a Department of Law at an approved academic institution;
 - (b) relevant principles adopted by the LACC;
 - (c) a report of an admitting authority in another Australian jurisdiction, or of a committee, body or person to which such

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an authority refers like matters for assessment.

21. Directions by Board

- (1) In relation to an application under rule 16 or 18 for directions, the Board may direct that the –
 - (a) overseas applicant's academic qualification and practical legal training are equivalent to an approved academic qualification and an approved practical legal training requirement under these rules; or
 - (b) overseas applicant is required to successfully complete further academic qualifications or practical legal training, or both, as specified by the Board, whether or not those requirements also form part of the qualifications required of a local applicant, before the applicant's academic qualification or practical legal training are approved under these rules; or
 - (c) overseas applicant's existing academic qualification and practical legal training are not equivalent to the academic qualification and practical legal training required under these rules.
- (2) The Board may vary or revoke a requirement specified under subrule (1)(b) if the Board –

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- (a) thinks it fit to do so in the circumstances;
and
 - (b) considers that to do so does not substantially diminish the value of the academic qualification or practical legal training required under that subrule.
- (3) Without limiting the Board’s discretion under subrules (1) and (2), the Board must, when determining an application under rule 16 or 18 for directions, take into account principles, from time to time adopted by the LACC, for the purposes of assessing the overseas applicant’s qualifications.
- (4) The Board may certify that an overseas applicant has an academic qualification and practical legal training sufficient for admission to the legal profession in Tasmania, whether or not the applicant has complied with a direction under this rule.

22. Specification of time for application for admission

- (1) The Board may, in a direction given under rule 21(1)(a) or (b), specify in the direction a time period within which the person to whom the direction applies must apply for admission to the legal profession in Tasmania.
- (2) An overseas applicant may apply to the Board for an extension of time if, under subrule (1), a direction relating to the applicant specified a time period.

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Part 3 – Rules Relating to Admission of Overseas Applicants

- (3) The Board may, on an application under subrule (2), extend a time period given in a direction under rule 21(1)(a) or (b) subject to a condition that the Board thinks fit.

PART 4 – FEES

23. Fees payable on applications under this Part

- (1) Subject to subrule (2) –
 - (a) the fee payable to the Board in respect of an application under rule 11 is a fee of 50 fee units; and
 - (b) the fee payable to the Board in respect of an application under rule 16 or 18 is a fee of 400 fee units.
- (2) The Board may, if it thinks fit, in relation to a fee specified in subrule (1) –
 - (a) waive all, or a specified part, of the fee so payable; or
 - (b) refund or remit all, or a specified part, of the fee so payable.

PART 5 – MISCELLANEOUS

24. Alteration of requirement by Board

- (1) A person making an application under Part 2 or 3 may apply to the Board to vary or dispense with a requirement under these rules in relation to that application.
- (2) If the Board receives an application under subrule (1), the Board may, subject to subrule (4), do one or more of the following in relation to the application:
 - (a) vary a requirement in these rules;
 - (b) dispense with a requirement in these rules.
- (3) If, under subrule (2), the Board makes a variation to, or dispenses with, a requirement in these rules, the Board may take such action subject to a condition that the Board thinks fit.
- (4) The Board may only vary a requirement, or dispense with a requirement, in these rules –
 - (a) if the Board considers that such variation or dispensation –
 - (i) does not in itself materially diminish the value of the qualifications or training required by these rules; or
 - (ii) does not diminish the value of the qualifications or training required

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Part 5 – Miscellaneous

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by these rules due to a condition imposed, if any, under subrule (3); or

- (b) in relation to the variation or dispensation of one of the following elements, if the circumstances resulting from a determination made under rule 21(1)(a) or (b) mean it would be unfair to the applicant not to do so:
- (i) an academic area of knowledge referred to in rule 4(1); or
 - (ii) a skill, value or practice area referred to in rule 7.

PART 6 – SAVINGS AND TRANSITIONAL PROVISIONS

25. Preliminary

In this Part –

commencement day means the day on which these rules commence;

former rules means the *Legal Profession (Board of Legal Education) Rules 2010*.

26. Saving of certificates &c. under former rules

A certificate, direction or advice issued or given by the Board under the former rules continues to have effect as if the former rules had not been repealed.

27. Resolution of issues arising under former rules

The Board may, on its own initiative or the application of a person to which this rule relates, make a decision, determination or direction that it considers necessary to resolve an issue arising as a result of the operation of these rules and the repeal of the former rules.

SCHEDULE 1 – AREAS OF ACADEMIC KNOWLEDGE

Rule 4(1)(a)

1. Interpretation

An area of knowledge listed in this Schedule –

- (a) must be studied; but
- (b) does not need to be studied in a specific subject or situation.

2. Criminal law and procedure

(1) The topics covered in respect of criminal law and procedure are to provide knowledge of –

- (a) the general doctrines of criminal law; and
- (b) examination of both offences against the person and offences against property; and
- (c) various defences; and
- (d) elements of criminal procedure.

(2) Without limiting subclause (1), the topics covered in respect of criminal law and procedure may include –

- (a) the definition of crime; and
- (b) the elements of crime; and
- (c) the aims of criminal law; and
- (d) homicide and defences; and

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- (e) non-fatal offences against the person and defences; and
- (f) the general doctrines of criminal law including such topics as –
 - (i) attempts; and
 - (ii) participation in crime; and
 - (iii) drunkenness; and
 - (iv) mistake; and
 - (v) strict responsibility; and
- (g) the elements of criminal procedure including such topics as –
 - (i) classification of offences; and
 - (ii) process to compel appearance; and
 - (iii) bail; and
 - (iv) preliminary examination; and
 - (v) trial of indictable offences.

3. Torts law

- (1) The topics covered in respect of torts law are to provide knowledge of –
 - (a) negligence and a representative range of torts, with some consideration of defences and damages; and

- (b) alternative methods of providing compensation for accidental injury; and
 - (c) such topics as concurrent liability, defamation, economic torts, nuisance, breach of statutory duty and compensation schemes.
- (2) Without limiting subclause (1), the topics covered in respect of torts law may include –
- (a) negligence, including defences; and
 - (b) a representative range of torts other than negligence and their defences; and
 - (c) damages; and
 - (d) concurrent liability; and
 - (e) compensation schemes.

4. Contracts law

- (1) The topics covered in respect of contracts law are to provide knowledge of –
- (a) the formal requirements for concluding contracts, capacity, the content and interpretation of contracts, and their performance and discharge; and
 - (b) available remedies; and
 - (c) the broad theoretical basis of contract.

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- (2) Without limiting subclause (1), the topics covered in respect of contracts law may include –
- (a) the formation of contracts including capacity, formalities, privity and consideration; and
 - (b) the content and construction of contracts; and
 - (c) vitiating factors; and
 - (d) discharge of contracts; and
 - (e) remedies; and
 - (f) assignment.

5. Property law

- (1) The topics covered in respect of property law are to provide knowledge of –
- (a) the nature and type of various proprietary interests in chattels and land, and their creation and relative enforceability at law and in equity; and
 - (b) statutory schemes or registration for both general law land and Torrens land; and
 - (c) fixtures, concurrent interests and more detailed treatment of such matters as sale of land, leases, mortgages, easements and restrictive covenants.

- (2) Without limiting subclause (1), the topics covered in respect of property law may include –
- (a) the meaning and purposes of the concept of property; and
 - (b) possession, seisin and title; and
 - (c) the nature and type of proprietary interests; and
 - (d) creation and enforceability of proprietary interests; and
 - (e) legal and equitable remedies; and
 - (f) statutory schemes of registration; and
 - (g) acquisition and disposal of proprietary interests; and
 - (h) concurrent ownership; and
 - (i) proprietary interests in land owned by another person; and
 - (j) mortgages.

6. Equity

- (1) The topics covered in respect of equity are to provide knowledge of –
- (a) the elements of trust law; and
 - (b) equitable doctrines apart from those relating to trusts and equitable remedies; and

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- (c) the various kinds of trusts; and
 - (d) the rights, duties and powers of trustees;
and
 - (e) the consequences of breach of trust; and
 - (f) equitable doctrines, including fiduciary obligations, equitable assignments, unconscionability and confidential information; and
 - (g) the remedies of specific performance, injunction, declaration and damages in equity.
- (2) Without limiting subclause (1), the topics covered in respect of equity may include –
- (a) the nature of equity; and
 - (b) equitable rights, titles and interests; and
 - (c) equitable assignments; and
 - (d) estoppel in equity; and
 - (e) fiduciary obligations; and
 - (f) unconscionable transactions; and
 - (g) equitable remedies.

7. Company law

- (1) The topics covered in respect of company law are to provide knowledge of –

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- (a) an analysis of incorporation and its effects, and management and control of a company; and
 - (b) the various methods of financing by the issue of shares and by debts; and
 - (c) the processes of winding up a company.
- (2) Without limiting subclause (1), the topics covered in respect of company law may include –
- (a) corporate personality; and
 - (b) the incorporation process; and
 - (c) the corporate constitution; and
 - (d) company contracts; and
 - (e) administration of companies and management of the business of companies; and
 - (f) the duties and liabilities of directors and officers; and
 - (g) share capital and membership; and
 - (h) member's remedies; and
 - (i) company credit and security arrangements; and
 - (j) the winding up of companies.

8. Administrative law

- (1) The topics covered in respect of administrative law are to provide knowledge of –
 - (a) traditional common law remedies concerning judicial review of administrative action; and
 - (b) the range of Commonwealth and State statutory regimes.
- (2) Without limiting subclause (1), the topics covered in respect of administrative law may include –
 - (a) the organisation and structure of administration; and
 - (b) administrative law theory; and
 - (c) common law and statutory avenues of judicial review at Commonwealth and State level; and
 - (d) the grounds for judicial review; and
 - (e) remedies; and
 - (f) Crown immunity; and
 - (g) the Administrative Appeals Tribunal; and
 - (h) statutory review; and
 - (i) freedom of information.

9. Federal and State constitutional law

- (1) The topics covered in respect of Federal and State constitutional law are to provide knowledge of –
 - (a) the major principles of the relevant State or Territory constitution and the Commonwealth Constitution; and
 - (b) the relationship between the different Commonwealth and State or Territory laws; and
 - (c) a general knowledge of the scope of State or Territory and Commonwealth constitutions.
- (2) Without limiting subclause (1), the topics covered in respect of Federal and State constitutional law may include –
 - (a) State constitutions and constitutional systems; and
 - (b) the Commonwealth Constitution and constitutional system; and
 - (c) the constitution and operation of the legislature, executive and judiciary; and
 - (d) the relationship between the different institutions of government and the separation of powers; and
 - (e) the relationship between the different levels of government.

10. Civil procedure

- (1) The topics covered in respect of civil procedure are to provide knowledge of –
 - (a) the general study of rules of civil procedure relevant in the State or Territory; and
 - (b) jurisdiction, and the initiation and service of process; and
 - (c) the definition of issues through pleading; and
 - (d) judgement enforcement.
- (2) Without limiting subclause (1), the topics covered in respect of civil procedure may include –
 - (a) court adjudication under an adversary system; and
 - (b) the cost of litigation and the use of costs to control litigation; and
 - (c) the service of originating process, as the foundation of jurisdiction, including service out of the relevant State or Territory and choice of forum; and
 - (d) 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; and

- (e) defining questions for trial, including pleadings, notices to admit and other devices; and
- (f) obtaining evidence, including discovery of documents, interrogatories, subpoena and other devices; and
- (g) disposition without trial, including the compromise of litigation; and
- (h) extrajudicial determination of issues arising in the course of litigation; and
- (i) judgement; and
- (j) appeal; and
- (k) enforcement.

11. Evidence

- (1) The topics covered in respect of evidence are to provide knowledge of –
 - (a) the examination of both the sources and acceptability of evidence; and
 - (b) the rules concerning the burden and standard of proof; and
 - (c) the rules concerning such matters as relevance, the hearsay rule and exceptions to hearsay, admissions and the discretion to exclude evidence.

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- (2) Without limiting subclause (1), the topics covered in respect of evidence may include –
- (a) the burden and standard of proof; and
 - (b) competence and compellability; and
 - (c) privilege; and
 - (d) the examination of witnesses; and
 - (e) tendency and co-incidence; and
 - (f) credibility; and
 - (g) the accused as a witness; and
 - (h) documentary evidence; and
 - (i) opinion evidence; and
 - (j) hearsay and the exceptions to hearsay;
and
 - (k) admissions; and
 - (l) discretions to exclude or limit the use of
evidence; and
 - (m) unreliable evidence.

12. Ethics and professional responsibility

- (1) The topics covered in respect of ethics and responsibility are to provide knowledge of –

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- (a) the various pertinent rules concerning a practitioner's duty to the law, the courts, clients and fellow practitioners; and
 - (b) a basic knowledge of the principles relating to the holding of money on trust.
- (2) Without limiting subclause (1), the topics covered in respect of ethics and professional responsibility may include professional and personal conduct in respect of a practitioner's duty to –
- (a) the law; and
 - (b) the courts; and
 - (c) clients, including a basic knowledge of the principles relating to the holding of money on trust; and
 - (d) fellow practitioners.

**SCHEDULE 2 – MATTERS RELEVANT TO STATE
QUALIFICATIONS**

Rule 4(4)

The following are common matters which the Board may take into account when considering the qualifications of an applicant for the purposes of rule 4(4) and rule 8(7):

- (a) the nature and quality of the applicant's previous academic and practical legal training qualifications, including the results obtained in academic or practical legal training subjects undertaken in Australia;
- (b) the length of time since the applicant successfully completed a particular academic or practical legal training requirement;
- (c) the applicant's subsequent verifiable experience in the subject matter of a particular academic or practical legal training requirement;
- (d) the nature, duration and currency of the applicant's experience in law-related occupations, including experience gained –
 - (i) in working in an Australian jurisdiction, or with Australian lawyers or in Australian law; or

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- (ii) in an environment requiring the regular public or objective testing of the applicant's judgement and knowledge of the relevant law;
- (e) whether there have been significant changes in the relevant law since the applicant completed an academic or practical legal training requirement;
- (f) other factors that may bear on the currency or relevance of the applicant's knowledge or experience in relation to a particular academic or practical legal training requirement.

**SCHEDULE 3 – PRACTICAL LEGAL TRAINING
COMPETENCY STANDARDS**

Rule 7

PART 1 – GENERAL

1. Training requirements

- (1) A practical legal training course must contain training in the following skills:
 - (a) lawyer skills;
 - (b) problem-solving skills;
 - (c) work management and business skills;
 - (d) trust and office accounting skills.
- (2) A practical legal training course must contain the following values:
 - (a) ethics;
 - (b) professional responsibility.
- (3) A practical legal training course must contain training in the following practice areas:
 - (a) civil litigation practice;
 - (b) commercial and corporate law practice;
 - (c) property law practice;
 - (d) at least one of the following areas:
 - (i) administrative law practice;

- (ii) criminal law practice;
- (iii) family law practice;
- (e) at least one of the following areas:
 - (i) consumer law practice;
 - (ii) employment and industrial relations practice;
 - (iii) planning and environmental law practice;
 - (iv) wills and estates practice.
- (4) Legal training provides the skills, values and practice areas specified in this clause if the course meets the requirements set out in this Schedule for those skills, values and practice areas.

PART 2 – SKILL COMPETENCY STANDARDS

1. Lawyer skills

The practice area of lawyer skills requires knowledge of, and competence in –

- (a) communicating effectively; and
- (b) interviewing clients; and
- (c) writing letters; and
- (d) drafting other documents; and

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- (e) negotiating settlements and agreements;
and
- (f) facilitating early resolution disputes; and
- (g) representing a client in court.

2. Problem-solving skills

The practice area of problem-solving skills requires knowledge of, and competence in –

- (a) analysing facts and identifying issues;
and
- (b) analysing law; and
- (c) providing legal advice; and
- (d) generating legal advice.

3. Work management and business skills

The practice area of work management and business skills requires knowledge of, and competence in –

- (a) managing personal time; and
- (b) managing risk; and
- (c) managing files; and
- (d) keeping a client informed; and
- (e) working cooperatively.

4. Trust and office accounting skills

The practice area of trust and office accounting skills requires knowledge of, and competence in –

- (a) receiving money; and
- (b) making outlays; and
- (c) rendering costs; and
- (d) maintaining trust accounts.

PART 3 – PRACTICE AREA COMPETENCY STANDARDS

1. Civil litigation practice

The practice area of civil litigation requires knowledge of, and competence in –

- (a) assessing the merits of a case and identifying dispute resolution alternatives; and
- (b) initiating and responding to claims; and
- (c) taking and responding to interlocutory proceedings; and
- (d) gathering and presenting evidence; and
- (e) negotiating settlements; and
- (f) taking action to enforce orders and settlement agreements.

2. Commercial and corporate practice

The practice area of commercial and corporate law requires knowledge of, and competence in –

- (a) conducting commercial transactions; and
- (b) setting up commercial structures; and
- (c) dealing with loans and securities; and
- (d) advising on revenue law and practice.

3. Property law practice

The practice area of property law requires knowledge of, and competence in –

- (a) transferring titles; and
- (b) creating leases, including standard commercial leases and standard residence leases; and
- (c) creating and releasing securities and mortgages; and
- (d) advising on land use including, but not limited to –
 - (i) town planning schemes; and
 - (ii) local government by-laws; and
 - (iii) environment and heritage legislation; and
- (e) advising on revenue implications.

4. Administrative law practice

The practice area of administrative law requires knowledge of, and competence in –

- (a) obtaining information under freedom of information legislation; and
- (b) obtaining reviews of administrative decisions; and
- (c) representing parties before courts and administrative tribunals.

5. Criminal law practice

The practice area of criminal law requires knowledge of, and competence in –

- (a) providing advice; and
- (b) applying for bail; and
- (c) making pleas; and
- (d) representing a client in minor matters; and
- (e) assisting to prepare cases for trial.

6. Family law practice

The practice area of family law requires knowledge of, and competence in –

- (a) applying for dissolution of marriage; and

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- (b) acting in relation to ancillary matters including, but not limited to –
 - (i) parenting matters; and
 - (ii) property settlements; and
 - (iii) spouse maintenance; and
 - (iv) child support; and
 - (v) domestic violence orders; and
 - (vi) injunctions and sole use orders; and
 - (vii) de facto proceedings.

7. Consumer law practice

The practice area of consumer law requires knowledge of, and competence in –

- (a) obtaining information; and
- (b) drafting documents; and
- (c) initiating and responding to claims; and
- (d) representing the client; and
- (e) taking action to implement outcomes.

8. Employment and industrial relations practice

The practice area of employment and industrial relations requires knowledge of, and competence in –

- (a) assessing the merits of the dispute and identifying the dispute resolution alternatives; and
- (b) advising the client on relevant procedures; and
- (c) commencing negotiations; and
- (d) initiating and responding to proceedings; and
- (e) representing the client; and
- (f) taking action to implement outcomes.

9. Planning and environmental law practice

The practice area of planning and environmental law requires knowledge of, and competence in –

- (a) assessing the merits of the matter and advising the client; and
- (b) preparing applications; and
- (c) initiating and responding to claims; and
- (d) representing the client; and
- (e) implementing outcomes.

10. Wills and estates practice

The practice area of wills and estates requires knowledge of, and competence in –

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- (a) drafting wills; and
- (b) administering deceased estates; and
- (c) taking action to resolve wills and estate problems.

PART 4 – VALUES COMPETENCY STANDARDS

1. Ethics and professional responsibility practice

The practice area of ethics and professional responsibility requires knowledge of, and competence in –

- (a) acting ethically; and
- (b) discharging the legal duties and obligations of legal practitioners; and
- (c) complying with professional conduct rules; and
- (d) complying with fiduciary duties; and
- (e) avoiding conflicts of interest; and
- (f) acting courteously; and
- (g) complying with rules relating to the charging of fees; and
- (h) reflecting on wider issues.

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These rules were made by the Board of Legal Education at a meeting held on 18 June 2021.

The common seal of the Board of Legal Education was affixed on 18 June 2021, in the presence of –

MICHAEL O’FARRELL SC
Member

GAYLE JOHNSTON
Member

Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 21 June 2021.

These rules are administered in the Department of Justice.

EXPLANATORY NOTE

(This note is not part of the rules)

These rules –

- (a) prescribe, for the purposes of the *Legal Profession Act 2007* –
 - (i) the academic qualification and practical legal training approved for admission to the legal profession in Tasmania; and

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- (ii) the procedure for an overseas applicant to gain assessment and recognition of overseas qualifications and experience in order to be admitted to the legal profession in Tasmania; and
 - (iii) other related purposes; and
- (b) are made consequentially on the repeal of the *Legal Profession (Board of Legal Education) Rules 2010* under section 11 of the *Subordinate Legislation Act 1992*.