

Stale Learning

Recently the Legal Profession Admission Board approved amendments to its rules to include a stale learning clause. These amendments will come into effect on **1 January 2015**.

The stale learning clause requires that, at the time an applicant applies for admission as a lawyer, completion of their academic and practical legal training requirements for admission must have occurred within the previous five years.

Amendments to forms for application for admission will coincide with the commencement of the new rules on 1 January 2015.

From 1 January 2015 applicants who have completed their academic and/or practical legal training courses more than 5 years prior to the time they would normally apply for admission will need to have their qualifications assessed in Forms 16 and/or 17 respectively. The prescribed fee (currently \$250 each) for these applications applies. Further information for applicants with stale qualifications will appear on the Board's website in due course.

The amended rules, which are expected to be gazetted in late December 2014 and will commence on 1 January 2015, appear below, with the amendments italicised and underlined.

Please contact the LPAB on 9338 3510 if you have any queries relating to transitional arrangements that apply up until the Board's last meeting for 2014, which is scheduled for 25 November 2014.

Rule amendments:

Part 11 Eligibility for admission as a lawyer

94 A person is eligible for admission as a lawyer if he or she has satisfied:

- (a) the academic requirements for admission,
- (b) the practical training requirement for admission and
- (c) such test of the English language competence as the Board from time to time by resolution prescribes.

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(1) The academic requirements for admission are:

- (a) completion, *within the previous five years*, of a tertiary academic course, 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 providing sufficient academic training for admission by the Supreme Court of that jurisdiction as a lawyer, and
- (b) completion of courses of study, as part of (a), which are recognised in at least one Australian jurisdiction, for the purposes of academic

requirements for admission by the Supreme Court of that jurisdiction as a lawyer, as providing sufficient academic training 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
- 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 set out in rule 53, and

(b) the courses listed in the Second Schedule.

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(1) The practical training requirement for admission is completion, *within the previous five years*, of a course of practical training or articles:

(a) which is recognized in at least one Australian jurisdiction as providing sufficient practical training for admission by the Supreme Court of that jurisdiction as a lawyer, and

(b) which includes evidence of the attainment of competencies in the following areas:

- Skills
 - Lawyers' Skills
 - Problem Solving
 - Work Management and Business Skills

- Trust and Office Accounting
- Practice Areas
 - Civil Litigation Practice
 - Commercial and Corporate Practice
 - Property Law Practice
 - One of the following:
 - Administrative Law Practice
 - Criminal Law Practice
 - Family Law Practice
 - One of the following:
 - Consumer Law Practice
 - Employment and Industrial Relations Practice
 - Planning and Environmental Law Practice
 - Wills and Estates Practice
- Values
 - Ethics and Professional Responsibility

(2) A synopsis of the competencies referred to in sub-rule (1) (b) is set out in the Sixth Schedule.

(3) The practical training courses conducted in New South Wales which are recognized as satisfying the requirement of sub-rule (1) are listed in the Fourth Schedule.

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(1) A person who falls within one of the categories set out in sub-rule (2) may apply to the Legal Qualifications 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, *within the previous five years*, 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, *within the previous five years*, completed those requirements,

- (c) persons who have, *within the previous five years*, 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, and
 - (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:
- (a) 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, and
 - (b) any examination referred to in rule 53 (b) if it is satisfied that the person has completed a law subject of equivalent educational standing in his or her earlier studies, and account has not been taken of that subject under paragraph (a).
- (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 undertake those studies.
- (10) An application for exemption under this rule shall be in and to the effect of 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 the determination, or within such extended time as the Legal Qualifications Committee may allow, request the Legal Qualifications Committee to review the determination.

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- (1) A person who falls within one of the categories set out in sub-rule (2) may apply to the Legal Qualifications Committee for exemption from practical training in some or all of the competencies set out in sub-rule (3).
- (2) The categories referred in sub-rule (1) are:
- a) persons who have completed, more than five years ago, a course of practical legal training or articles which complies with paragraphs (a) and (b) of subrule 96(1).
 - b) persons who have been admitted as lawyers in a foreign jurisdiction,
 - c) persons who have attained the age of 30 years, and have completed either seven 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,
- (3) The competencies referred to in sub-rule (1) are:
- Skills
 - Lawyers' Skills
 - Problem Solving
 - Work Management and Business Skills
 - Practice areas
 - Civil Litigation Practice
 - Commercial and Corporate Practice
 - Property Law Practice
 - One of the following:

- Administrative Law Practice
 - Criminal Law Practice
 - Family Law Practice
 - One of the following:
 - Consumer Law Practice
 - Employment and Industrial Relations Practice
 - Planning and Environmental Law Practice
 - Wills and Estates Practice
- (4) The Practical Training Exemptions Sub-Committee may exempt a person from practical training in a skill or practice area if it is satisfied that the person has attained the level of competence in that skill or practice area which would be expected of a graduate of one of the practical training courses listed in the Fourth Schedule.
- (5) A person who has been exempted under sub-rule (4) from practical training in one or more skills or practice areas shall, before making application for admission as a lawyer, complete coursework and pass examinations approved by the Practical Training Exemptions Sub-Committee in:
- (a) Ethics and Professional Responsibility,
 - (b) Trust and Office Accounting, and
 - (c) those skills and practice areas referred to in sub-rule (2) from which he or she has not been exempted.
- (6) An application for exemption under this rule shall apply in and to the effect of Form 17.
- (7) At the time of making an application to the Board under this rule the applicant shall serve a copy of an application on the Law Society.
- (8) A person aggrieved by a determination of the Practical Training Exemptions Sub-Committee under sub-rule (4) may, within one month of the making of the determination, or within such extended time as the Legal Qualifications Committee may allow, request the Legal Qualifications Committee to review the determination.
- (9) The Practical Training Exemptions Sub-Committee may grant exemptions on such conditions as it thinks fit.