

Continuing Professional Development Rules 2008

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Legal Profession Act 2004

Continuing Professional Development Rules 2008

The Legal Services Board makes the following Rules:

Dated:

1 Objective

The objective of these Rules is to provide compliance mechanisms in relation to continuing professional development requirements imposed on local legal practitioners by legal profession rules made by a professional association.

2 Authorising provision

These Rules are made under section 3.2.9(1) of the **Legal Profession Act 2004**.

3 Commencement

These Rules come into operation on 1 April 2008.

4 Definitions

In these Rules—

CPD means continuing professional development;

CPD activity means an activity undertaken for the purposes of CPD;

CPD year means the year beginning on 1 April;

professional association CPD rules mean legal profession rules made by a professional association that impose requirements on local legal practitioners to undertake CPD activities.

5 Application of rules

These Rules apply in relation to a local legal practitioner who is required to undertake CPD activities under professional association CPD rules.

6 Annual certification of CPD activities

At the same time as applying for renewal of his or her local practising certificate, a local legal practitioner must certify to the Board whether the practitioner has complied with the requirements of any professional association CPD rules that applied to the practitioner in respect of the CPD year last ended.

7 Board may require verification of CPD activities

- (1) The Board may at any time require a local legal practitioner to verify within 21 days whether or not he or she has complied with any professional association CPD rules that apply to him or her by—
 - (a) producing to the Board—
 - (i) any records required to be kept by the practitioner under the professional association CPD rules;
 - (ii) any other records in the practitioner's possession or control that are relevant to the practitioner's compliance with those rules;
 - (b) giving the Board—
 - (i) a statement of the practitioner's reasons for claiming that any activities undertaken by the practitioner satisfy any requirements for CPD activities under the professional association CPD rules;

- (ii) particulars of any exemption granted by the Board under these Rules.
- (2) A requirement of the Board under this rule may be given to a local legal practitioner only in relation to the current CPD year or any of the 3 previous CPD years.

Example

In August 2008 the Board could require a local legal practitioner to verify that the practitioner has complied with the CPD rules in relation to the year commencing on 1 April 2008 (that is, the current CPD year) or any of the years commencing on 1 April 2007, 1 April 2006 or 1 April 2005.

8 Rectification of non-compliance

- (1) This rule applies if—
 - (a) a local legal practitioner certifies under rule 6 that he or she has not complied with the professional association CPD rules that apply to him or her; or
 - (b) a local legal practitioner complies with a requirement under rule 7 and the Board is not satisfied that the practitioner has complied with the professional association CPD rules that apply to him or her; or
 - (c) a local legal practitioner fails to comply with rule 6 or a requirement under rule 7.
- (2) The Board may give a written notice to the practitioner requiring him or her to submit a plan to the Board, within 21 days, setting out the steps the practitioner intends to take to rectify the non-compliance within 90 days after the plan is submitted to the Board.

- (3) A practitioner must comply with a notice given to him or her under subrule (2) and with a plan submitted to the Board under that subrule.

Note

Failure to comply with subrule (3) is capable of constituting unsatisfactory professional conduct or professional misconduct—see section 3.2.17(2) of the **Legal Profession Act 2004**. It is also a matter the Board may take into account in determining whether a person is a fit and proper person to hold a practising certificate—see section 2.4.4(1)(c) of the Act.

- (4) A notice of the Board under this rule may be given to a local legal practitioner only in relation to the current CPD year or any of the 3 previous CPD years.

Example

In August 2008 the Board could give a notice in relation to the year commencing on 1 April 2008 (that is, the current CPD year) or any of the years commencing on 1 April 2007, 1 April 2006 or 1 April 2005.

9 Exemptions

- (1) On application by a local legal practitioner, the Board may exempt the practitioner in whole or part from any requirement to undertake CPD activities imposed on the practitioner by professional association CPD rules.
- (2) An application for an 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 practitioner becomes aware of his or her non-
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compliance with the relevant requirement to undertake CPD activities.

- (3) The Board may consider an application referred to in subrule (2)(b) that is made within one month of the end of the current CPD year, or an application referred to in subrule (2)(c) that is made outside the 21 day period, if the Board considers that there are special circumstances.
- (4) Without limiting the grounds on which the Board may grant an exemption, an exemption may be granted on the grounds of hardship or special circumstances based on any one or more of the following—
 - (a) illness or disability;
 - (b) the location of a local legal practitioner's legal practice;
 - (c) the absence of a local legal practitioner from legal practice.
- (5) The Board may impose any conditions it thinks appropriate on an exemption under this rule.
- (6) A local legal practitioner must comply with any conditions imposed on an exemption under this rule.

Note

Failure to comply with subrule (6) is capable of constituting unsatisfactory professional conduct or professional misconduct—see section 3.2.17(2) of the **Legal Profession Act 2004**. It is also a matter the Board may take into account in determining whether a person is a fit and proper person to hold a practising certificate—see section 2.4.4(1)(c) of the Act.
