

NOTES

All references in these notes refer to the *Legal Profession Uniform Law Application Act 2014* (the Act), the *Legal Profession Uniform Law (Victoria)* (the LPUL) or the *Legal Profession Uniform General Rules 2015* (the Rules), unless otherwise specified.

Note A – Practising certificate commencement date

An Australian practising certificate granted in this jurisdiction is in force from the date specified on it until the end of the financial year in which it is issued.

(Rule 17(1)). An Australian practising certificate granted in this jurisdiction:

- (a) cannot commence prior to the date that the application is received;
- (b) cannot commence prior to the date of admission to practice; and
- (c) if a commencement date is not recorded at question 1, the date of commencement will be taken as the date on which a complete application was received.

A practitioner may not commence legal practice until a practising certificate is granted.

Please note: When applying for a grant of a new practising certificate, you are not permitted to hold a concurrent practising certificate from another jurisdiction (s.45(1)(c) of the LPUL).

Note B – Admission details

If you have been admitted in an Australian jurisdiction other than Victoria, you must provide evidence of your admission and fitness to engage in legal practice in each of these jurisdictions.

If you have been admitted, but did not hold a practising certificate in that jurisdiction, you must provide a certified copy of your interstate admission certificate.

If you have been admitted in another jurisdiction and held a practising certificate in that jurisdiction, you must provide a current Certificate of Fitness and Good Standing from the appropriate regulatory authority.

Note C – Other places of practice

Australian legal practitioners engaging in legal practice with more than one law practice or entity are required to complete this question. Please attach a separate sheet if you have more than one additional place of practice.

Note D – Eligibility to apply for a practising certificate

Under ss.43-45 of the LPUL, you may apply for an Australian practising certificate if:

- you are an Australian lawyer; and
- you have, or will have professional indemnity insurance (as required by the LPUL); and
- you have indicated that you do not hold another Australian practising certificate that would be in force concurrently with this certificate.

Note E – Authorisation to receive trust money

This question does not apply to barristers. To be authorised to receive trust money, the applicant must hold an Australian practising certificate granted in this jurisdiction and provide evidence of completion of an approved trust account course of study in accordance with s.47(2) of the LPUL. The Board has approved the Law Institute of Victoria Trust Account course for this purpose.

Note F – Supervised legal practice

Requirement

Section 49 of the LPUL imposes a condition on each Australian legal practitioner's first practising certificate requiring the holder to engage in supervised legal practice for a specified period. Supervised legal practice is defined in s.6 of the LPUL. Rule 7 and 14 of the Rules broaden the capacities in which supervised legal practice can be undertaken.

The Board's guidelines and policy statement on supervised legal practice are available on the Board's website at www.lsb.vic.gov.au. Depending on the training undertaken to qualify for admission, the requisite period is:

- 18 months after the day the holder's first Victorian practising certificate was granted if practical legal training was completed under the supervision of an Australian Legal Practitioner (e.g. supervised workplace training) ; or
- 2 years after the day the holder's first Victorian practising certificate was granted if other practical legal training was completed (e.g. a Graduate Diploma in Legal Practice).

Exceptions

The supervised legal practice condition does not apply to barristers.

Removal of the supervision condition

If you have completed the requisite period of supervision, you may attach your application for removal of the condition from your practising certificate, including supporting documentation, to this form.

Please note that the application must be submitted to the Victorian Legal Services Board in the form of a statutory declaration, a pro forma of which is available on the Board's website.

Exemption from the supervision condition

If you have previously engaged in legal practice in an interstate or overseas jurisdiction, or as a government lawyer who was not required to hold a practising certificate, you may be able to apply for an exemption from the supervised legal practice requirement. Please note that exemption applications must be submitted to the Board in the form of a statutory declaration, a pro forma of which is available on the Board's website.

Note G - Fit and proper person

The Board must not grant a practising certificate unless it is satisfied that the applicant is a fit and proper person to hold a practising certificate (s.45(2) of the LPUL) . In considering whether a person is fit and proper, the Board may take into account any matter it thinks appropriate, including the matters set out at Rule 13(1) of the Rules.

Practitioners should refer to the Rules when completing their application for a full description of matters that the Board can take into account. The Board may find that a person is a fit and proper person where circumstances warrant (s.45(4) of the LPUL).

The Board, in determining whether the applicant is a fit and proper person, will also consider a practitioner's disclosure obligations outlined in the Board's 'Fit and Proper Person Policy' and 'Mental Health Policy', which are available on the Board's website.

Practitioners should read these policies and note that case law generally affirms that honesty, candour and frankness are particularly relevant to a person’s fitness and propriety. Mental illness, however, is not relevant where it is appropriately managed and has no impact on the practitioner’s capacity to engage in legal practice.

If any of the matters referred to above are applicable to you, or if there are any other matters which you think may be relevant, you must attach a written statement addressing each of these matters to this form.

Matters previously disclosed to an admission authority

Please also provide details of any matters which you have previously disclosed in an application for admission in an Australian jurisdiction, including Victoria. If, however, you have already disclosed these matters to the Board you are not required to provide the details again in your current application. These matters will not generally be considered by the Board unless, together with your current disclosures, they form part of a course of conduct that may affect the grant of a practising certificate.

Note H – Show cause or notifiable events

Under s.87(2) of the LPUL, if a show cause event has happened to you prior to this application, you must disclose this in your application for grant of an Australian practising certificate. You must make this disclosure by providing the Board with a written statement under s.87(2)(b) about the show cause event and explain why, despite this, you consider yourself to be a fit and proper person.

You will not be required to disclose the show cause event if it has previously been disclosed to the Board. Show cause events are found in s.85 of the LPUL, and s.86 provides that an ‘automatic show cause event’ refers to a ‘bankruptcy-related event’, ‘serious offence’ and ‘tax offence’. These terms are defined in s.6 of the LPUL. Part 3.5, Division 4 of the LPUL describes the Show Cause procedure.

A ‘Notice of show cause event’ form is available on the Forms page on the Board’s website.

Please note, you have an ongoing obligation under ss.51, 88 and 91 of the LPUL to disclose show cause or other notifiable events to the Board and provide:

- notice of the event within the applicable time limit;
- with regard to show cause events, a written statement explaining why, despite the event, you still consider yourself to be a fit and proper person to hold an Australian practising certificate within 28 days after the event occurring; and
- if the written statement is provided after 28 days, the Board may accept the statement and take it into consideration.

Under s.89(2) the Board may refuse to grant an Australian practising certificate if:

- you are required to provide a written statement (as outlined above) and fail to do so; or
- you have provided a written statement, but the Board does not consider that you have shown in the statement that, despite the show cause event, you are a fit and proper person to continue to hold a practising certificate.

Note I – Applying for a practising certificate between 1 July and 30 September - late lodgement surcharge

Under s.73(2) of the Act, if you held an Australian practising certificate granted in this jurisdiction on 30 June and you lodge a practising certificate application between 1 July and 30 September, you must pay a surcharge of 200% of the prescribed fee. The Board may refund all or part of the surcharge if it believes that special circumstances apply. If you believe that special circumstances apply, you must pay the surcharge, and include with your application a written statement to the Board outlining the special circumstances.

Exception

The above requirement in s.73(2) of the Act will not apply if the application for a practising certificate is accompanied by a statutory declaration in accordance with s.73(3) of the Act addressing the following points:

- you have not engaged in legal practice since the end of the previous financial year;
- as at the end of the previous financial year, you did not intend to engage in legal practice for at least the first three months of the current financial year; and
- the reasons why the intention referred to in the previous paragraph changed.

Note J – Continuing professional development (CPD)

Under s.52 of the LPUL it is a statutory condition of your practising certificate that you comply with the Continuing Professional Development Rules. This condition still applies even if you are based overseas. The Board’s CPD Policy provides that practitioners returning from extended leave must complete all outstanding CPD units on return to practice.

Note K – Declaration by an individual applying for a practising certificate

You must complete the declaration by ticking the declaration on LSB Online. If you answer yes to this question your application will not progress, as you cannot hold concurrent Australian Practising Certificates under the *Legal Profession Uniform Law Application Act 2014*. Please note that obtaining an Australian practising certificate on the basis of incorrect or misleading information is a matter which may be taken into account by the Board when considering whether or not a person is a fit and proper person to hold a local practising certificate.

Note L – Practising certificate types and prescribed fees

Under s.47(1) of the LPUL, an Australian practising certificate granted in this jurisdiction will authorise the holder to engage in legal practice in one of six capacities. Under s.73(1)(a) of the Act, a practising certificate application must be accompanied by the prescribed fee. The following table sets out the prescribed fees for each type of practising certificate. These fees are pro-rated on a quarterly basis. Please refer to the Board’s website for the pro-rated fees.

Practising Certificate Type	Fee
Principal of a law practice	
• authorised to receive trust money	\$496
• not authorised to receive trust money	\$336
Barrister	\$336
Corporate legal practitioner	\$336
Employee of a law practice	\$336
Government legal practitioner	\$336
Volunteer at a CLS	No fee

Note M – Fidelity Fund Contribution

Under s.73(1)(b) of the Act, a practising certificate application must be accompanied by the required fidelity fund contribution (if any) under s.225 of the LPUL. The table below sets out the Fidelity Fund contribution classes and corresponding fees. These fees are pro-rated on a quarterly basis.

Note N – Professional indemnity insurance (PII)

Under s.211 of the LPUL, an Australian legal practitioner must not engage in legal practice in Victoria unless the practitioner holds or is covered by an approved insurance policy, and the policy covers that legal practice. The same applies to an ILP by virtue of s.212. For exemptions from the requirements to hold approved PII see s.215.

A policy of professional indemnity insurance is an approved insurance policy if the policy is issued by the Legal Practitioners’ Liability Committee (LPLC), or it has been issued by another insurer and it has been approved by the Board (see s.13 of the Act).

For further information about obtaining PII, please contact the LPLC on (03) 9672 3800. For further information about obtaining an exemption from PII, please refer to the Board’s website.

The LPLC will provide the Board with notification that your PII has been paid. Principal, employee, and volunteer practising certificates cannot be granted to any applicant who is not covered by PII as required by the LPUL. If you hold a corporate or government practising certificate, the onus will be on you to ensure that you are covered by your employer’s insurance or self-insurance arrangements.

PII for Community Legal Services (CLSs)

Under s.213 of the LPUL, CLSs must have insurance on terms and conditions approved by the Board. Further information on PII for CLSs is available on the Board’s website.

PII for practitioners engaged in pro bono work

All practitioners who provide legal services on a *pro bono* basis outside of a CLS must hold, or be covered by, an approved PII policy which covers *pro bono* work.

Under s.13 of the Act, the Board can approve insurance for corporate legal practitioners or government legal practitioners providing legal services on a *pro bono* basis. Practitioners who hold a PII policy authorising *pro bono* work which has not been approved by the Board, or issued by the LPLC, can apply for an exemption pursuant to s.215 of the LPUL.

PII for overseas-based Victorian practitioners

Section 211 of the LPUL only requires lawyers to hold professional indemnity insurance when engaging in legal practice ‘in this jurisdiction’.

Only when lawyers intend to continue advising Victorian clients, or intend to practise in Victoria from their overseas base, will they be required to be covered by an approved insurance policy, or exempted under s.215 of the LPUL.

The Victorian Legal Services Board has determined the following Fidelity Fund contribution classes:

Class	Type	
1	Australian practising certificate authorising the receipt of trust money - exceeding \$500,000 The holder of an Australian practising certificate authorising the receipt of trust money and who received, or was a principal, employee or a director of a law practice that received over \$500,000 in trust money during the trust audit year ending on 31 October of the previous year.	\$496
2	Principal practising certificate not authorising the receipt of trust money but employed by a law practice that received trust money exceeding \$500,000 The holder of a principal practising certificate not authorising the receipt of trust money and who is the principal or employee of a law practice that received over \$500,000 in trust money during the trust audit year ending on 31 October of the previous year.	\$496
3	Australian practising certificate authorising the receipt of trust money - not exceeding \$500,000 The holder of an Australian practising certificate authorising the receipt of trust money and who received, or was a principal, employee or a director of a law practice that received up to \$500,000 in trust money during the trust audit year ending on 31 October of the previous year.	\$248
4	Principal practising certificate not authorising the receipt of trust money who is a principal of a law practice that received trust money not exceeding \$500,000 The holder of a principal practising certificate not authorising the receipt of trust money and who is a principal or employee of a law practice that received up to \$500,000 in trust money during the trust audit year ending on 31 October of the previous year.	\$248
5	Employee practising certificate - law practice authorised to receive trust money The holder of an employee practising certificate who is employed by a law practice which is authorised to receive trust money.	\$124
6	Exempt Practitioners Corporate practitioners, government practitioners, sole practitioners not authorised to receive trust money, employee practitioners employed by a sole practitioner or law practice not authorised to receive trust money and employees at community legal services are not required to pay a Fidelity Fund contribution.	Nil