

**Policy**

**Foreign Lawyers Registration**

<b>Introduction</b>	1.1	The Foreign Lawyer Registration Policy provides guidelines for the management of applications for registration as a foreign lawyer under Part 3.4 of the Legal Profession Uniform Law (Vic) (the Uniform Law) and Part 3.4 of the Legal Profession Uniform General Rules 2015 (the Uniform Rules).
<b>Policy Key</b>	2.1	To comply with rule 20(1)(d) of the Uniform Rules and section 76(1) of the <i>Legal Profession Uniform Law Application Act 2014</i> (Vic) (the Application Act), an application for a registration certificate issued in Victoria must: <ul style="list-style-type: none"> <li>• be made on the Board’s application form titled ‘Application for grant or renewal of registration as foreign lawyer’ (the application form); and</li> <li>• be accompanied by the registration fee.</li> </ul>
	2.2	Pursuant to r 20(2) of the Uniform Rules and s 76 of the Application Act, the registration fee will be: <ul style="list-style-type: none"> <li>• for an Australian registration certificate with authorisation to receive trust money, the same amount as the fee prescribed by the Board, from time to time, for an Australian practising certificate issued in Victoria with authorisation to receive trust money. The registration fee will be prorated on a quarterly basis for part-year registration; or</li> <li>• for an Australian registration certificate without authorisation to receive trust money, the same amount as the fee prescribed by the Board, from time to time, for an Australian practising certificate issued in Victoria without authorisation to receive trust money. The registration fee will be prorated on a quarterly basis for part-year registration.</li> </ul>
	2.3	Section 62(3) of the Uniform Law and r 20 of the Uniform Rules set out the criteria for the grant or renewal of an Australian registration certificate. Applications for the grant or renewal of an Australian registration certificate must be accompanied by a current original document (or certified copy) from the foreign registration authority in any country where the applicant is currently registered to engage in legal practice: <ul style="list-style-type: none"> <li>• verifying the applicant’s educational and professional qualifications (eg. tertiary degree and admission to practice);</li> <li>• verifying that the applicant is currently registered to engage in legal practice in the foreign country and specifying the date period covered by that registration;</li> <li>• stating whether the applicant is currently subject to any special conditions or undertakings concerning engaging in legal practice; and</li> <li>• describing anything done by the applicant in engaging in legal practice in the foreign country, of which the authority is aware, that has had or is likely to have an adverse effect on the applicant’s professional standing within the legal profession in that country.</li> </ul>
	2.4	If a foreign registration authority is unable to verify the applicant’s educational and professional qualifications, the application form must also be accompanied by a certified copy of the relevant qualifications.

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- 2.5 The application form must be accompanied by a current original document (or a certified copy) from the foreign registration authority in any other country where the applicant was formerly registered to engage in legal practice:
- specifying the date period when the applicant was registered to engage in legal practice in the foreign country; and
  - describing anything done by the applicant in engaging in legal practice in the foreign country, of which the authority is aware, that has had or is likely to have an adverse effect on the applicant's professional standing within the legal profession in that country.
- 2.6 The applicant must verify the statements in the application form by statutory declaration.
- 2.7 In the absence of any other evidence to the contrary, the Board will rely on the applicant's statements in the application form to satisfy itself that the applicant:
- is not an Australian legal practitioner; and
  - intends to engage in legal practice in Victoria within a reasonable period after registration.
- 2.8 In considering whether a country has an effective system of legal practice regulation, pursuant to s 62(3)(b) of the Uniform Law, the Board will:
- a) consider any information that is available from the following sources:
- provided by the applicant
  - obtained through the Board's own inquiries
  - provided by an interstate regulator
- b) have regard to all relevant matters, including but not limited to the following matters (if applicable):
- the objectives of the Board set out in s 30 of the Application Act, including:
    - effective regulation of the profession
    - maintaining professional standards
    - protection of consumers
    - addressing the concerns of clients of law practices and legal practitioners.
  - the purposes of Part 3.4 of the Uniform Law, which include encouraging and facilitating the internationalisation of legal services;
  - providing and promoting interjurisdictional consistency in the law applying to the Australian legal profession, having regard to the objectives of the Uniform Law set out in s 3; and
  - any relevant Board policies or guidelines.

- 2.9 In considering whether a country has an effective system for regulating engaging in legal practice, the Board may consider the guidelines set out below. These guidelines are intended to facilitate consistent decision-making but are not intended to be determinative.
- a) Prior registration by the Board**
- The Board will usually be satisfied that the country has an effective system of legal practice regulation if the Board has previously registered a foreign lawyer to practise the law of that country pursuant to the Uniform Law or its predecessor legislation, unless there have subsequently been material changes to the relevant system.
- b) Prior registration by an interstate regulator**
- The Board will give significant weight to the fact that an interstate regulator has previously registered a foreign lawyer to practise the law of that country pursuant to a corresponding law, unless there have subsequently been material changes to the relevant system. However, the Board may also consider any information that is available about the basis for the interstate regulator's decision and any other information obtained through its own inquiries.
- c) General criteria**
- The Board will usually be satisfied that the country has an effective system of regulation if it has adequate processes in relation to the following core areas:
- entry standards and training
  - licensing and registration
  - conduct rules
  - monitoring and enforcing compliance
  - complaints
  - discipline.
- 2.10 In considering whether an applicant is a fit and proper person to be registered pursuant to r 21(2) and (3), the Board will have regard to the Board's Fit and Proper Person Policy Statement.
- 2.11 If the applicant is covered by a policy of professional indemnity insurance, the application form must be accompanied by an original document from the insurer (or a certified copy), pursuant to r (2)(1)(d) and (3) that:
- verifies that the applicant currently holds professional indemnity insurance that covers the applicant for the practice of foreign law in Victoria pursuant to the Uniform Law
  - specifies the date period covered by the policy
  - specifies the sum insured for each claim under the policy
  - if the insurer is not the Legal Practitioners Liability Committee (the LPLC), specifies the terms and conditions of the policy.

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- 2.12 In considering whether to approve a professional indemnity insurance policy pursuant to s 13(2)(d) of the Application Act, the Board will require the terms and conditions to be the same or materially the same as the LPLC policy approved by the Board, from time to time, for legal practitioners in relation to:
- the types of claims covered
  - who is covered
  - the sum insured for each claim
- unless** these requirements:
- are not necessary to give proper protection to the foreign lawyer's clients, or
  - would be oppressive.
- 2.13 If the application is for the grant or renewal of a registration certificate with authorisation to hold trust money, the application form must be accompanied by satisfactory evidence that the applicant has completed a course of study approved by the Board unless there are special circumstances.
- 2.14 Pursuant to s 64 of the Uniform Law, the registration certificate will have a condition stating whether or not the holder is authorised to receive trust money.
- 2.15 If a condition or limitation was imposed on the person's foreign practising certificate (or equivalent) under a corresponding foreign law, the Board will usually impose a similar condition or limitation on the registration certificate pursuant to s 67 of the Uniform Law and r 22 of the Uniform Rules, unless the condition:
- is not necessary to give proper protection to the foreign lawyer's clients, or
  - would be oppressive.
- 2.16 The Board will accept a certified copy of a relevant document, if the person certifying the copy has sighted the original document and is:
- a person authorised to witness statutory declarations under Victorian law
  - a registered legal practitioner pursuant to the law of another jurisdiction
  - a registered public notary pursuant to the law of another jurisdiction.

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**Management & Implementation**

- 3.1 This policy statement is complemented by the following forms, policies and procedures of the Board:
- application for grant or renewal of registration as foreign lawyer form
  - notification of change of information kept on the register – registered foreign lawyer form
  - notice of show cause event form
  - Fit and Proper Person Policy Statement
  - Privacy Policy.
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