

LAW ADMISSIONS CONSULTATIVE COMMITTEE

**UNIFORM PRINCIPLES FOR
ASSESSING QUALIFICATIONS
OF
OVERSEAS APPLICANTS FOR ADMISSION
TO THE AUSTRALIAN LEGAL PROFESSION**

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CONTENTS

1.	SUMMARY OF REQUIREMENTS	1
2.	SUBSTANTIALLY EQUIVALENT TYPE OF LAW COURSE	1
2.1	Requirements for Australian-trained applicants	1
2.2	Three year full-time course	2
2.3	Irregular or unusual qualifications	2
2.4	Out-of-jurisdiction qualifications	2
2.5	Incomplete qualifications	3
2.6	Second degree in law	3
2.7	Composite qualifications	3
3.	SUBSTANTIALLY EQUIVALENT ACADEMIC QUALIFICATIONS	3
3.1	Demonstrating equivalence	4
3.2	Satisfying further requirements	4
4.	SUBSTANTIALLY EQUIVALENT PRACTICAL TRAINING QUALIFICATIONS	5
4.1	Requirements for Australian-trained applicants	5
4.2	Applicants who have been admitted to legal practice overseas	5
4.3	Applicants who have not been admitted to legal practice overseas	6
4.4	Applicants who have been admitted overseas but who do not have sufficient or current experience of practice	6
4.5	Eligibility for exemption	6
4.6	Demonstrating equivalence	7
4.7	Satisfying further requirements	7
5.	ENGLISH LANGUAGE PROFICIENCY	7
6.	TIME LIMITS	8
7.	RESTRICTED RIGHTS OF PRACTICE	9
8.	FORM OF APPLICATIONS	9

Schedule

1	PRESCRIBED AREAS OF KNOWLEDGE	10
2	COMMON ADDITIONAL ACADEMIC REQUIREMENTS	17
3	COMPETENCY STANDARDS FOR ENTRY LEVEL LAWYERS	23
4	PRINCIPLES FOR ASSESSING PRACTICAL LEGAL TRAINING QUALIFICATIONS OF APPLICANTS FROM OTHER COUNTRIES	51

1. SUMMARY OF REQUIREMENTS

To be admitted to the legal profession in an Australian jurisdiction on the basis of qualifications obtained outside Australia, an applicant must have:

- (a) completed a tertiary course leading to legal practice in the applicant's home jurisdiction, involving the equivalent of 3 years' full-time study of law; and
- (b) successfully completed subjects within that course, which are substantially equivalent to the areas of study which Australian applicants must successfully complete before being admitted to the legal profession in Australia; and
- (c) acquired and demonstrated an appropriate understanding of, and competence in, certain skills, practice areas and values, which are substantially equivalent to the skills, practice areas and values which Australian applicants must acquire and demonstrate an understanding of and competence in, before being admitted to the legal profession in Australia; and
- (d) undertaken, or been exempted from, the International English Language Testing System Academic Module (**IELTS**) test within two years before seeking admission, and obtained minimum scores of 8.0 for writing, 7.5 for speaking and 7.0 for reading and listening, in the components of that test.

These Uniform Principles show how Australian Admitting Authorities approach the task of assessing an applicant's compliance with each of these requirements.

Once an Overseas applicant has been admitted to the legal profession, a practising certificate must be obtained, before commencing to practise law. The relevant authority in each jurisdiction will invariably require an Overseas applicant to undertake a period of restricted practice under supervision, before full rights of practice are granted. Item 7 sets out the prevailing practices.

2. SUBSTANTIALLY EQUIVALENT TYPE OF LAW COURSE

2.1 Requirements for Australian-trained applicants

An applicant trained as a lawyer in Australia must have acquired a tertiary qualification in law that is recognised for the purposes of admission to the legal profession. While acquiring that qualification the applicant must have satisfactorily completed studies in each of the areas of knowledge prescribed in Schedule 1.

The course leading to that qualification must be designed to be completed by a full-time student over at least 3 full-time academic years. Where the course is divided into semesters, it should comprise at least 6 semesters of approximately 13 weeks each.

Similarly, an overseas applicant must also have acquired a relevant academic qualification, while following a tertiary course, which:

- (a) normally leads to admission to practise law in the applicant's home jurisdiction; and

- (b) is substantially equivalent to a three year full-time course that leads to admission to the legal profession in Australia.

2.2 **Three year full-time course**

A course will be substantially equivalent, if it is designed to be completed by a full-time student over at least three full academic years. Where a course is divided into semesters, it should comprise at least six semesters of approximately 13 weeks each.

An applicant may have completed the course over more than three years, or as a part-time (rather than full-time) student. In some circumstances an applicant may be eligible if such a course has been completed in less than 3 years.

2.3 **Irregular or unusual qualifications**

Where a qualification is offered at a post-graduate level, or as an external degree, or through distance education, or partly on-line, it may not be "substantially equivalent" for the purposes of item 2.1. The application of a person who has completed such a qualification must explain:

- (a) the nature of the qualification; and
- (b) whether the qualification obtained by the applicant is sufficient to qualify the applicant to undertake Practical Legal Training in the applicant's home jurisdiction; and
- (c) why the qualification should be regarded as complying with item 2.1.

A qualification will not be regarded as substantially equivalent, unless it qualifies the applicant to undertake Practical Legal Training in the jurisdiction in which the qualification was obtained.

For example, a person who obtains less than a Second Class Division B in the external degrees in law offered by the University of London and Wolverhampton University is apparently not qualified to undertake Practical Legal Training in the United Kingdom. Such a qualification would not be regarded as substantially equivalent.

2.4 **Out-of-jurisdiction qualifications**

In cases where an applicant has completed a course of academic training on-line or by distance education, offered by an institution other than an Australian institution, while living in a country other than that in which the institution is situated, an Admitting Authority may also require the applicant to have completed any further Practical Legal Training (such as a Practical Legal Training Course or bar exams) in the country where the course of academic training was completed, before applying to have the applicant's qualifications assessed in Australia.

For example, a person who completes an external degree in law at the University of London, while living in a country other than the United Kingdom, would be required to complete Practical Legal Training in the United Kingdom, before applying to have the person's qualifications assessed in Australia.

2.5 **Incomplete qualifications**

In some cases, a prospective applicant may not yet have completed the relevant tertiary course in law in the applicant's home jurisdiction, before coming to Australia.

Some Admitting Authorities do not have power to consider an application, unless the applicant has already completed a law course. Others may consider an application, and indicate what additional academic qualifications must be acquired in Australia.

Where an Admitting Authority is unable to consider such an application, it will often be possible for the prospective applicant to obtain admission to a local law course *ad eundem statum* and, having gained credit for subjects completed in another jurisdiction, complete an approved Australian academic qualification.

2.6 **Second degree in law**

Overseas graduates in law, or overseas practitioners often undertake post-graduate work in Australia. A post-graduate Doctorate, Masters or Diploma course, taken in Australia or elsewhere, is generally not a relevant qualification for admission purposes. Subjects taken as part of such a qualification will only be assessed if they are substantially equivalent in content to a relevant subject normally taken as part of a course leading to admission to practise law.

2.7 **Composite qualifications**

In some jurisdictions, notably the United Kingdom, an applicant may have undertaken some proportion of academic training at a University, and the remaining training as part of a dedicated legal professional training course. Similarly, in the United States of America, an applicant may have completed some subjects as part of a law degree and others in the course of preparing for bar exams in a particular State.

Provided that the composite qualification has been completed by the applicant and is sufficient to qualify an applicant for admission in the applicant's home jurisdiction, it may, but will not necessarily, also satisfy the requirement in item 2.2.

3. **SUBSTANTIALLY EQUIVALENT ACADEMIC QUALIFICATIONS**

All applicants, however eminent or experienced they may be in their home jurisdictions, must have undertaken courses in the following areas of study:

Criminal law and procedure

Torts

Contracts

Property (including Torrens System Land)

Equity (including Trusts)

Administrative Law
Federal and State Constitutional Law
Civil Procedure
Evidence
Company Law
Ethics and Professional Responsibility

In each case, the content must be substantially equivalent to that described in broad terms in Schedule 1.

3.1 **Demonstrating equivalence**

In addition to information set out in an applicant's official academic transcript, information about the precise content of each subject which an applicant has undertaken will help an Admitting Authority to determine whether subjects are substantially equivalent to those described in Schedule 1.

Admitting Authorities apply the common practices set out in Schedule 2, when assessing applicants with qualifications from other countries. They may help an applicant to anticipate what additional academic requirements the applicant may be required to undertake in Australia.

Each application is, however, assessed on its own particular merits and in the light of information lodged in support of the application. It must, however, be stressed that eminence, seniority or length of service as a practitioner in an applicant's home jurisdiction do not constitute grounds for granting credit for academic qualifications which an applicant does not possess.

If an applicant has been admitted in the applicant's home jurisdiction, but:

- (a) was admitted 5 or more years earlier and has not since practised; or
- (b) has not practised for all of the preceding 5 years,

an Admitting Authority may require the applicant to undertake more of the subjects set out in Schedule 1 than might otherwise be required.

3.2 **Satisfying further requirements**

An applicant who is required to complete additional academic requirements will be able to do so only by undertaking corresponding subjects at a tertiary institution recognised for the purpose of providing pre-admission academic training in law in the jurisdiction in which the applicant has applied for admission. Studying single subjects at other types of institutions will not suffice.

An applicant will generally be required to complete any additional academic and Practical Legal Training requirements and to apply for admission, within such period of years as is specified by the relevant Admitting Authority.

4. SUBSTANTIALLY EQUIVALENT PRACTICAL TRAINING QUALIFICATIONS

4.1 Requirements for Australian-trained applicants

An Australian-trained, local applicant, after acquiring an appropriate Australian academic qualification, must also acquire and demonstrate an appropriate understanding of, and competence in, certain Skills, Practice Areas and Values, as set out in Schedule 3. This is usually done either by attending a Practical Legal Training course or by acquiring workplace experience under supervision, where the relevant competencies can be acquired; or by a combination of both methods.

For the purpose of this requirement, an Australian-trained, local applicant can obtain workplace experience as an employee within a corporation, a court officer or Government official, in certain circumstances. The applicant's duties must be purely legal and relate to areas of legal practice. Further, the applicant's supervisor must hold a current practising certificate or equivalent authorisation, except where workplace experience may be undertaken with a judge.

An Australian-trained local applicant may then be admitted, but is required to engage in *supervised* legal practice for a period after admission.

An applicant who has been educated in another country will be expected to have acquired, or to obtain, qualifications which are substantially equivalent to those required by an Australian-trained local applicant.

4.2 Applicants who have been admitted to legal practice overseas

All applicants, however eminent or experienced they may be in their home jurisdictions, must have acquired and demonstrated an appropriate understanding of, and competence in, each of the Skills, Practice Areas and Values set out in Schedule 3, before they can be admitted to the legal profession in Australia.

Where an applicant has already been admitted to legal practice in the applicant's home jurisdiction and has had experience of legal practice, the applicant will often have acquired understanding of, and competence in, some of the Skills, Practice Areas and Values set out in Schedule 3.

This may have been acquired either:

- (a) by undertaking a Practical Legal Training course in the home jurisdiction; or
- (b) by working as a lawyer in the home jurisdiction, either in private practice or as an employee of a corporation, or as a Court officer or Government official.

An eligible applicant (see item 4.5 below) may be granted an exemption from further study of a Skill, Practice Area or Value in Australia, if the Admitting Authority is satisfied that the applicant has acquired and demonstrated an appropriate understanding of, and

competence in, a substantially equivalent Skill, Practice Area or Value, in the applicant's home jurisdiction (see item 4.6 below).

4.3 **Applicants who have not been admitted to legal practice overseas**

A graduate in law, who has not undertaken Practical Legal Training in the applicant's home jurisdiction, will be required satisfactorily to complete the Practical Legal Training required in the applicant's home jurisdiction, before either the academic or Practical Legal Training qualifications of the applicant can be assessed for the purpose of admission in Australia.

An applicant who has completed that Practical Legal Training but who has not subsequently been admitted in the applicant's home jurisdiction, will be required to satisfy the same Practical Legal Training requirements as an Australian applicant: see item 4.1 above. Such an applicant is not eligible to receive an exemption.

4.4 **Applicants who have been admitted overseas but who do not have sufficient or current experience of practice**

An applicant who has completed Practical Legal Training requirements and been admitted to legal practice in the applicant's home jurisdiction, may be required to acquire and demonstrate an appropriate understanding of, and competence in, each of the Skills, Practice Areas and Values in Australia, in the same way as an Australian applicant.

Such an applicant may be granted an exemption in relation to one or more Skill, Practice Area or Value, but only if the applicant is eligible to apply for an exemption under the principles set out in item 4.5.

4.5 **Eligibility for exemption**

An applicant will only be eligible to receive an exemption from acquiring and demonstrating an appropriate understanding of, and competence in, a Skill, Practice Area or Value in Australia, if:

- (a) in the case of an applicant who has been admitted to legal practice overseas for less than 5 years, the applicant has constantly been in active practice since being admitted; or
- (b) in the case of an applicant who has been admitted to legal practice overseas for 5 years or more, the applicant:
 - (i) has been in active practice for some or all of the preceding 2 years; and
 - (ii) has not been absent from active practice for more 5 years in the 10 years before applying for admission in Australia.

No applicant is eligible to receive an exemption in relation to:

Trust and Office Accounting

Ethics and Professional Responsibility.

4.6 **Demonstrating equivalence**

In order for an applicant to satisfy an Admitting Authority that the applicant has acquired and demonstrated an appropriate understanding of, or competence in, a particular Skill, Practice Area or Value, the applicant must provide documentary evidence which:

- (a) explicitly sets out how the applicant has acquired and demonstrated appropriate understanding and competence in the relevant Skill, Practice Area or Value for which exemption is sought;
- (b) shows how the practice undertaken by the applicant has satisfied each relevant performance criterion set out in the PLT Competencies for that Skill, Practice Area or Value; and
- (c) is corroborated by evidence from the applicant's employer or a person with whom the applicant has been associated in practice, verifying each of the matters referred to in paragraphs (a) and (b).

Unless an application clearly demonstrates each of these elements, an Admitting Authority will not grant an exemption. *An Admitting Authority is not obliged to seek further information from an applicant if appropriate and sufficient information is not provided in an initial application for exemption.*

As with academic qualifications, Admitting Authorities apply the common practices set out in Schedule 4, when assessing applicants with Practical Legal Training qualifications from other countries. These common practices are based on the Practical Legal Training systems applying in each listed country. They may help an applicant to anticipate what additional Practical Legal Training requirements the applicant may be required to undertake in Australia.

Each application is, however, assessed on its own particular merits and in the light of information lodged in support of the application. It must, however, be stressed that eminence, seniority or length of service as a practitioner in an applicant's home jurisdiction does not constitute grounds for granting credit for Practical Legal Training competence which an applicant does not possess.

4.7 **Satisfying further requirements**

An applicant who is required to complete additional Practical Legal Training requirements in Australia will only be able to do so by acquiring and demonstrating an appropriate understanding of, or competence in, a particular skill, practice area or value, by undertaking relevant study in that area with a Practical Legal Training provider recognised for the purpose of providing pre-admission Practical Legal Training in the jurisdiction in which the applicant has applied for admission. Studying a topic of the same name or with a similar content at another type of institution will not suffice.

5. **ENGLISH LANGUAGE PROFICIENCY**

- 5.1 Each Admitting Authority requires an applicant for admission to the legal profession to demonstrate a high level of English proficiency in reading, writing, listening and speaking.

- 5.2 Subject to items 5.3 and 5.4, every applicant for admission must satisfy the relevant Admitting Authority that the applicant has, in the 2 years immediately preceding that person's application for admission:
- (a) completed the International English Language Testing System Academic Module (IELTS) test; and
 - (b) obtained minimum scores of 8.0 for writing, 7.5 for speaking and 7.0 for reading and listening, in the components of that test.
- 5.3 An Admitting Authority may accept evidence that an applicant has complied with item 5.2(a) and (b) more than 2 years before applying for admission, if the applicant satisfies the Admitting Authority that, since the date on which the applicant first complied with item 5.2(a) and (b), the applicant has continuously held a practising certificate and been engaged in legal practice, in a country where English is the native or first language.
- 5.4 An Admitting Authority may exempt an applicant from the requirement of complying with item 5.2, if the applicant satisfies the Admitting Authority that the applicant has, with the medium of instruction being English, undertaken both:
- (a) at least the final two years of secondary education; and
 - (b) the academic qualification in law upon which the applicant relies,
- in a country where English is the native or first language, while living in such a country, for the whole of that time.
- 5.5 An applicant must meet the cost of undertaking the IELTS test and of providing the relevant Admitting Authority with evidence that the applicant has complied with the requirements set out above.

Further information about the IELTS Academic Module, including information about its cost and where and when it may be taken, can be obtained from:

IELTS Australia
GPO Box 2006
CANBERRA ACT 2601
AUSTRALIA
Phone: +61 2 6285 8222
Fax: +61 2 6285 3233
Email: ielts@idp.com

6. TIME LIMITS

An Admitting Authority, when giving a direction about any additional academic and Practical Legal Training requirements, will also fix a time limit within which an applicant must comply with those requirements and make an application for admission to the legal profession. The relevant time limit will depend upon the additional requirements imposed, but in no case will exceed 5 years.

A person who fails to comply with a time limit imposed by an Admitting Authority will be required to make a further application for a direction as to any additional academic or

Practical Legal Training requirements. Those requirements may differ from the requirements imposed on an earlier application.

7. **RESTRICTED RIGHTS OF PRACTICE**

Once an applicant has been admitted to the legal profession in Australia, a practising certificate must be obtained before commencing to practise law. The relevant Authority in each jurisdiction invariably requires an applicant to undertake a period of supervised practice, before full rights of practice are granted.

Each Authority commonly requires an applicant, after admission, to undertake post-admission supervised practice for:

- (a) 24 months, if the person has less than 2 years' substantial and recent experience working as an admitted legal practitioner in an aspect of the legal profession in a common-law jurisdiction; or
- (b) 12 months, if the person has 2 or more years' substantial and recent experience working as an admitted legal practitioner in an aspect of the legal profession in a common-law jurisdiction; or
- (c) 24 months, if the person's previous experience of legal practice has been acquired in a jurisdiction which is not a common-law jurisdiction.

Where an applicant has worked for an Australian employer who is engaged in the legal profession, while acquiring additional Academic or PLT qualifications for the purpose of admission to the legal profession in Australia, that period of employment may be taken into account by the relevant Authority when fixing the appropriate period of post-admission supervised practice.

8. **FORM OF APPLICATIONS**

An applicant must provide original or duly certified copies of the applicant's Academic record and the results obtained in any Practical Legal Training Course.

Documents supporting an application must either be sworn as affidavits or verified in some other suitable manner.

Precise requirements for an application may be obtained from the Admitting Authority to which application is made.

SCHEDULE 1
PRESCRIBED AREAS OF KNOWLEDGE

Although the topics below are grouped for convenience under the headings of particular areas of knowledge, there is no implication that a topic needs to be taught in a subject covering the area of knowledge in the heading rather than in another suitable subject.

CRIMINAL LAW AND PROCEDURE

1. The definition of crime.
2. Elements of crime.
3. Aims of the criminal law.
4. Homicide and defences.
5. Non-fatal offences against the person and defences.
6. Offences against property.
7. General doctrines.
8. Selected topics chosen from:
 - attempts
 - participation in crime
 - drunkenness
 - mistake
 - strict responsibility.
9. Elements of criminal procedure. Selected topics chosen from:
 - classification of offences
 - process to compel appearance
 - bail
 - preliminary examination
 - trial of indictable offences.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should provide knowledge of the general doctrines of the criminal law and, in particular, examination of both offences against the person and against property. Selective treatment should also be given to various defences and to elements of criminal procedure.

TORTS

10. Negligence, including defences.
11. A representative range of torts (other than negligence) and their defences.
12. Damages.
13. Concurrent liability.
14. Compensation schemes.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The potential compass of this area is so large that considerable variation might be anticipated. At the very least, there should be a study of negligence and of a representative range of torts, with some consideration of defences and damages, and of alternative methods of providing compensation for accidental injury. Examples of these topics are: concurrent liability, defamation, economic torts, nuisance, breach of statutory duty and compensation schemes.

CONTRACTS

1. Formation, including capacity, formalities, privity and consideration.
2. Content and construction of contract.
3. Vitiating factors.
4. Discharge.
5. Remedies.
6. Assignment.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

Some variation may be expected in the breadth and detail of the topics. In general, however, knowledge of the formal requirements for concluding contracts, capacity, the content and interpretation of contracts, their performance and discharge, and available remedies, together with an understanding of the broad theoretical basis of contract would be expected.

PROPERTY

1. Meaning and purposes of the concept of property.
2. Possession, seisin and title.
3. Nature and type (i.e. fragmentation) of proprietary interests.
4. Creation and enforceability of proprietary interests.
5. Legal and equitable remedies.
6. Statutory schemes of registration.
7. Acquisition and disposal of proprietary interests.
8. Concurrent ownership.
9. Proprietary interests in land owned by another.
10. Mortgages.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should provide knowledge of the nature and type of various proprietary interests in chattels and land, and their creation and relative enforceability at law and in equity. Statutory schemes of registration for both general law land and Torrens land should be included. A variety of other topics might be included, e.g., fixtures, concurrent interests and more detailed treatment of such matters as sale of land, leases, mortgages, easements, restrictive covenants, etc.

EQUITY

1.
 - (a) The nature of equity
 - (b) Equitable rights, titles and interests
 - (c) Equitable assignments
 - (d) Estoppel in equity
 - (e) Fiduciary obligations
 - (f) Unconscionable transactions
 - (g) Equitable remedies
2. Trusts, with particular reference to the various types of trusts and the manner and form of their creation and variation. The duties, rights and powers of trustees should be included, as should the consequences of breach of trust and the remedies available to, and respective rights of, beneficiaries. (It is expected that about half the course will be devoted to trusts.)

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should cover the elements of trust law, equitable doctrines apart from those relating to trusts, and equitable remedies. The following aspects of trusts law should be dealt with: various kinds of trusts; the rights, duties and powers of trustees; the consequences of breach of trust. Apart from trusts, the following equitable doctrines might be covered, for example, fiduciary obligations, equitable assignments, unconscionability and confidential information. The remedies of specific performance, injunction, declaration and damages in equity should be included. (It is expected that about half the course will be devoted to trusts.)

COMPANY LAW

1. Corporate personality.
2. The incorporation process.
3. The corporate constitution.
4. Company contracts.
5. Administration of companies and management of the business of companies.
6. Duties and liabilities of directors and officers.
7. Share capital and membership.
8. Members' remedies.
9. Company credit and security arrangements.
10. Winding up of companies.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include an analysis of incorporation and its effects, management and control of a company, the various methods of financing - by the issue of shares and by debt - and the processes of winding up a company.

ADMINISTRATIVE LAW

1. Organisation and structure of the administration.
2. Administrative law theory.
3. Common law and statutory avenues of judicial review at Commonwealth and State level.
4. Grounds of judicial review.

5. Remedies.
6. Crown immunity.
7. Administrative Appeals Tribunal.
8. Statutory review.
9. Freedom of information.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should not only embrace traditional common law remedies concerning judicial review of administrative action, but should also cover the range of Commonwealth and State statutory regimes.

FEDERAL AND STATE CONSTITUTIONAL LAW

1. State constitutions and constitutional systems.
2. The Commonwealth Constitution and constitutional system.
3. The constitution and operation of the legislature, executive and judiciary.
4. The relationship between the different institutions of government and the separation of powers.
5. The relationship between the different levels of government.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include knowledge of the major principles of both the relevant State or Territory Constitution and the Commonwealth Constitution, including the relations between the different Commonwealth and State or Territory laws. A general knowledge of the scope of both State or Territory and Commonwealth Constitutions is required, although the topics will differ in the depth of treatment of specific heads of power, particularly in the Commonwealth sphere.

CIVIL PROCEDURE

1. Court adjudication under an adversary system.
2. The cost of litigation and the use of costs to control litigation.
3. Service of originating process - as foundation of jurisdiction, including service out of the relevant State or Territory and choice of forum.

4. 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.
5. Defining the questions for trial - pleadings, notices to admit and other devices.
6. Obtaining evidence - discovery of documents, interrogatories, subpoena and other devices.
7. Disposition without trial, including the compromise of litigation.
8. Extra-judicial determination of issues arising in the course of litigation.
9. Judgement.
10. Appeal.
11. Enforcement.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should embrace the general study of rules of civil procedure relevant in the State or Territory. Rules concerning jurisdiction, the initiation and service of process, the definition of issues through pleadings and judgment and enforcement should all be included.

EVIDENCE

1. Introduction.
2. Competence and compellability.
3. Privilege.
4. The examination of witnesses.
5. Disposition and character.
6. Similar fact evidence.
7. The accused as a witness.
8. Burden and standard of proof.
9. Documentary evidence.
10. Opinion evidence and prior determination.
11. Hearsay:
 - the exclusionary rule
 - the common law and statutory exceptions.

12. Admissions and confessions in criminal cases.
13. Illegally obtained evidence and confirmation by subsequent fact.
14. Res gestae.
15. Corroboration.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include examination of both the sources and acceptability of evidence, including rules concerning the burden and standard of proof and technical rules concerning such matters as hearsay, admissions and confessions, illegally obtained evidence and res gestae.

ETHICS AND PROFESSIONAL RESPONSIBILITY

Professional and personal conduct in respect of a practitioner's duty:

- (a) to the law;
- (b) to the Courts;
- (c) to clients, including a basic knowledge of the principles relating to the holding of money on trust; and
- (d) to fellow practitioners.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include knowledge of the various pertinent rules concerning a practitioner's duty to the law, the Courts, clients and fellow practitioners, and a basic knowledge of the principles relating to the holding of money on trust.

SCHEDULE 2

COMMON ADDITIONAL ACADEMIC REQUIREMENTS

This Schedule and its Appendix set out the additional academic requirements commonly required of applicants from other countries who have been admitted to practise overseas.

With the sole exception of applicants from New Zealand who have already been admitted to practise in New Zealand, applicants from other countries who do not also happen to have graduated from an Australian Law School will be required to do additional academic work. The following three categories summarise commonly required additional academic requirements. They are:

- (a) Usual subjects
- (b) Usual and additional subjects
- (c) All Prescribed subjects.

For the purpose of these categories, **Prescribed Subjects** mean the subjects described in Schedule 1.

1. USUAL SUBJECTS

- 1.1 For most countries, **Usual Subjects** means that an applicant from that country will be required to study:

Administrative law

Federal and State Constitutional Law

Property

These requirements often vary in the following circumstances.

In some jurisdictions (New Zealand, Singapore, most Canadian and some United States jurisdictions) applicants will usually have studied Torrens system land registration systems as part of a common-law Property course. Where an applicant has clearly studied Torrens system land registration in more than a cursory way as part of a common-law Property course, the applicant may not be required to study Property, even if the subject which has been completed is less comprehensive than might usually be prescribed in an equivalent Australian subject.

- 1.2 An applicant qualified in Israel, Papua New Guinea, South Africa, Sri Lanka or Scotland will usually also be required to study Equity.

2. USUAL AND ADDITIONAL SUBJECTS

Some applicants may have been admitted in their home country, without studying one or more of the Prescribed Subjects. Common examples are Ethics and Professional Responsibility, Company Law and Equity. Any Prescribed Subject which has not been studied must be added to the Usual Subjects required of an applicant.

3. ALL PRESCRIBED SUBJECTS

An applicant relying on qualifications from any country not mentioned in the Appendix will be required to study all Prescribed Subjects.

APPENDIX TO SCHEDULE 2

Canada

- (a) Most law schools in Canada offer a qualification in common law, but some universities in Quebec offer a degree which is primarily in Civil Law. Applicants who only have a degree in Civil Law and have not also taken subjects in a common law degree, will generally be required to do all Prescribed Subjects. Applicants with common law degrees would generally be required to do the Usual Subjects.
- (b) Most Provinces in Canada have Torrens-style land registration systems. Where the application reveals that, as part of a Property course, the applicant has studied a Torrens-style land registration system in more than a cursory way, credit may be given for Property.

Eire

The Usual Subjects.

England, Wales and Northern Ireland

- (a) An applicant who has completed a University degree in law will usually be required to study the Usual Subjects, plus Ethics & Professional Responsibility. The applicant will also be required to take any of the Prescribed Subjects that have not been studied as part of that degree.
- (b) An applicant who has completed the Common Professional Examination or a post-graduate Diploma in Law and who has studied the "foundations of legal knowledge", will usually be required to study the Usual Subjects plus Evidence, Criminal Procedure, Civil Procedure, Company Law and Ethics & Professional Responsibility.
- (c) An applicant who has qualified for admission by completing the Qualified Lawyers Transfer Test will be required to undertake such of the Academic requirements under this Appendix as apply to the country in which the applicant's initial academic qualification in law was completed.

Fiji

- (a) Practitioners in Fiji have often been admitted either in the United Kingdom or in New Zealand, on the basis of academic qualifications obtained in those jurisdictions. Such applicants will usually be assessed in the light of the principles applicable to the jurisdiction in which their primary academic qualification has been obtained.

- (b) An applicant who hold a qualification from the University of the South Pacific will usually be required to do the Usual Subjects.

Hong Kong

- (a) Some Hong Kong applicants will rely on academic qualifications obtained in the United Kingdom and even on prior United Kingdom admission. Such applicants should be assessed in the light of the principles applicable to the jurisdiction in which their primary qualification is obtained.
- (b) Applicants who rely on degree taken in Hong Kong will usually be required to do the Usual Subjects.
- (c) For a limited period, ending in 1982, it was possible for Hong Kong students to undertake Part I of the English Law Society Qualifying Examination in Hong Kong. Thereafter they could qualify for admission to practise by taking Part II, administered and marked by the Hong Kong Law Society.

In such a case, an applicant should be required to complete such subjects as have not been specifically included in the prior qualification.

Israel

- (a) The Usual Subjects plus Contract, Equity and Tort.
- (b) An Israeli applicant will have studied a registration system which incorporates elements of the Torrens system. Nevertheless, as the underlying principles of Israeli Property Law are different from those of the common law, all applicants should be required to study Property.

Lesotho

- (a) All Prescribed Subjects.
- (b) Many South African practitioners were formerly admitted in Lesotho, in order to obtain access to reciprocal admission within the British Commonwealth. Such applicants will be assessed on the basis of their South African qualifications.

Malaysia

- (a) Some Malaysian applicants will rely on academic qualifications obtained in the United Kingdom, and even on prior United Kingdom admission. Such applicants should be assessed in the light of the principles applicable to the jurisdiction in which their primary qualification was obtained.
- (b) Malaysia has a system of general law land, side by side with the Torrens System, similar to most Australian jurisdictions. Graduates from the University of Malaysia will usually be required to undertake the Usual Subjects, with the exception of Property.
- (c) Persons holding the three year diploma in law from the Mara Institute of Technology were not eligible for admission in Malaysia. To qualify for admission, persons with that qualification often applied for admission to certain Australian and New Zealand

Universities. They then proceeded to take the relevant Australian or New Zealand degree and any additional pre-admission subjects not included in those degrees. Where such applicants have completed an Australian degree, their qualifications will be assessed as if they were Australian applicants.

Malta

- (a) Some applicants will rely on academic qualifications obtained in the United Kingdom, and even on prior United Kingdom admission. Such applicants should be assessed in the light of the principles applicable to the jurisdiction in which their primary qualification was obtained.
- (b) Applicants who rely on a Bachelor of Laws from the University of Malta will be required to take all Prescribed Subjects except Criminal Law and Company Law

New Zealand

- (a) An applicant who has been admitted to legal practice in New Zealand is not required to undertake additional academic study.
- (b) An applicant who has satisfied the two threshold requirements in item.2.1 of these principles, but has not actually been admitted to legal practice in New Zealand will be required to study the Usual Subjects, excluding Property.

Papua New Guinea

- (a) Some applicants from Papua New Guinea may rely on academic qualifications obtained in other jurisdictions and even upon prior admission in those jurisdictions. Such applicants should be assessed in the light of the principles applicable to the jurisdiction in which their primary qualification was obtained.
- (b) Applicants relying on a degree from the University of Papua New Guinea will be required to take the Usual Subjects plus Equity.

Philippines

The Usual Subjects plus Criminal Law, Torts and Equity.

Scotland

- (a) The course descriptions of law degrees in Scottish universities are often not immediately recognisable. Nevertheless, under the various appellations of private law, civil law, the law of obligations, etc, many academic requirements are usually met.
- (b) Applicants will usually be required to undertake the Usual Subjects and the additional subjects of Civil Procedure and Equity.
- (c) An applicant who acquired qualifications after 1980 will probably have studied a registration system which incorporates elements of the Torrens system. Nevertheless, as the underlying principles of Scottish Property Law are different from those of the common law, all applicants should be required to study Property.

Singapore

- (a) Some Singapore applicants will rely on academic qualifications obtained in the United Kingdom, and even on prior United Kingdom admission. Such applicants should be assessed in the light of the principles applicable to the jurisdiction in which their primary qualification was obtained.
- (b) Singapore has a system of general law land side by side with Torrens System, similar to most Australian jurisdictions. Singapore applicants will thus generally be required to undertake the Usual Subjects, but will be relieved of the need to study Property.

South Africa

- (a) Graduates in law from South African universities will generally have satisfied most academic requirements, although, as with Scotland and Sri Lanka, the appellation of subjects is sometimes unfamiliar.
- (b) An applicant will usually be required to study the Usual Subjects plus Equity.

Sri Lanka

- (a) Because of its civil law background, subjects taken as part of a degree in Sri Lanka are often more similar in name to Scottish or South African degrees than other common-law degrees. Nevertheless, the subject matter of Contracts, Criminal Law, Torts and Company Law will generally have been covered as part of a such a degree.
- (b) Applicants with qualifications from Sri Lanka are generally required to undertake the Usual Subjects. Applicants who have completed the subject Succession & Trusts at the Sri Lanka Law College will also be required to study Equity. Applicants who have completed the subject Equity & Trusts at the University of Colombo will not be required to study Equity.

United States

- (a) Only applicants from law schools approved by the American Bar Association will be assessed. Approved schools are listed at:
www.abanet.org/legaled/approvedlawschools/approved.html
- (b) Applicants will generally be required to undertake the Usual Subjects. Some States have land registration ("recordation") and title insurance systems. Where the application reveals that, as part of a Property course, the applicant has studied a Torrens-style land registration system in more than a cursory way, credit may be given for Property.

West Indies

The Usual Subjects.

SCHEDULE 3

COMPETENCY STANDARDS FOR ENTRY LEVEL LAWYERS

At the point of admission, each applicant will be expected to provide evidence that the applicant has achieved the requisite competence in the following Skills, Practice Areas and Values:

Skills	Practice Areas	Values
Lawyer's Skills Problem Solving Work Management and Business Skills Trust and Office Accounting	Civil Litigation Practice Commercial and Corporate Practice Property Law Practice One of: Administrative Law Practice Criminal Law Practice Family Law Practice And one of: Consumer Law Practice Employment and Industrial Relations Practice Planning & Environmental Law Practice Wills and Estates Practice	Ethics and Professional Responsibility

The relevant Competency Standards for each Skill, Practice Area and Value are set out below.

Administrative Law Practice

Descriptor: An entry level lawyer who practises in administrative law should be able to obtain information for clients under freedom of information legislation, seek review of administrative decisions, and represent parties before courts and administrative tribunals.

Element	Performance criteria
	The lawyer has competently:
1. Obtaining information	<ul style="list-style-type: none">• identified whether freedom of information legislation applies to the situation.• identified the specific legislation under which the information may be obtained.• taken the steps required under that legislation.• taken any other practical steps required.
2. Obtaining review of administrative decisions	<ul style="list-style-type: none">• concluded correctly that the decision may be reviewed.• identified and discussed with the client alternative means of obtaining a review.• completed all preparation required by law, good practice and the circumstances of the matter.• represented the client effectively at any mediation, hearing or other review forum, where this is appropriate and permitted.
3. Representing a client	<ul style="list-style-type: none">• identified all alternative means of obtaining redress and discussed them with the client.• completed all preparation required by law, good practice and the circumstances of the matter.• represented the client effectively at any mediation, hearing or other forum.

Explanatory Note

This competency standard applies to State and Federal administrative law and practice and proceedings before both State and Federal courts and tribunals.

For an entry level lawyer administrative law practice may be either an area of specialised practice or an ancillary part of general practice.

Preparing to represent a client in a court or tribunal may include drafting written submissions.

Civil Litigation Practice

Descriptor: An entry level lawyer should be able to conduct civil litigation in first instance matters in one or more State or Territory courts of general jurisdiction, in a timely and cost-effective manner.

Element	Performance criteria
	The lawyer has competently:
1. Assessing the merits of a case and identifying the dispute resolution alternatives	<ul style="list-style-type: none">assessed the strengths and weaknesses of both the claimant's and opponent's cases.identified the facts and evidence required to support the claimant's case.identified all means of resolving the case, having regard to the client's circumstances.identified and complied with the relevant limitation period.
2. Initiating and responding to claims	<ul style="list-style-type: none">identified an appropriate claim or defence.identified a court of appropriate jurisdiction.identified the elements of the claim or defence, according to law.followed procedures for bringing the claim or making the defence in accordance with the court's rules and in a timely manner.drafted all necessary documents in accordance with those procedures.
3. Taking and responding to interlocutory proceedings	<ul style="list-style-type: none">identified any need for interlocutory steps, according to the court's rules.followed procedures for taking those steps in accordance with the court's rules and in a timely manner.drafted all necessary documents in accordance with those procedures and rules.
4. Gathering and presenting evidence	<ul style="list-style-type: none">identified issues likely to arise at the hearing.identified evidence needed to prove any facts in dispute, according to the rules of evidence.gathered the necessary evidence.presented that evidence according to law and the court's rules.

- | | |
|---|--|
| 5. Negotiating settlements | <ul style="list-style-type: none"> • conducted settlement negotiations in accordance with specified principles. • identified any revenue and statutory refund implications. • properly documented any settlement reached. |
| 6. Taking action to enforce orders and settlement agreements | <ul style="list-style-type: none"> • identified procedures for enforcing the order or settlement according to law and the court's rules. • Followed those procedures in a timely manner. |

Explanatory Note

This competency standard applies to first instance civil litigation in a local lower and a local higher court of an Australian State or Territory, having general jurisdiction, and in the Federal Court.

Means by which a dispute might be resolved include, but are not limited to:

- negotiation;
- mediation;
- arbitration;
- litigation;
- expert appraisal.

Means by which evidence might be gathered include:

- statements from witness;
- notices to admit;
- discovery;
- subpoena;
- expert reports;
- certified official records, banker's books etc.

Means by which evidence might be presented include:

- orally on oath;
- affidavits;
- video or telephone link.

Means of enforcement include:

- execution process including attachment of debts;
- taxation or assessment of costs;
- oral examination.

Commercial and Corporate Practice

Descriptor: An entry level lawyer should be able to conduct standard commercial transactions such as the sale or purchase of a small business. The lawyer should be able to set up standard business structures using entities such as companies, trusts and partnerships; provide basic advice on finance and securities and the obligations of companies and their officers; and appreciate the type of advice needed to assess the revenue implications of standard commercial transactions.

Element	Performance criteria
	The lawyer has competently:
1. Conducting commercial transactions	<ul style="list-style-type: none">• identified the nature of the transaction properly.• undertaken sufficient searches and inquiries to investigate any relevant issues of title to real or personal property.• drafted documents, had them executed, and (if necessary) certified, stamped and registered them, according to law and good practice.• obtained or given any necessary consents to, or notifications of, the transaction required by law.
2. Setting up commercial structures	<ul style="list-style-type: none">• selected a structure that will achieve the client's objectives.• drafted all documents required to set up the structure (including establishing any discrete entities that will form part of the structure) had them executed and (if necessary) certified, stamped and registered them, according to law and good practice.• informed the client of any continuing obligations in relation to the structure, and where the structure involves a corporation, the continuing obligations of the company and its officers.
3. Dealing with loans and securities	<ul style="list-style-type: none">• identified the various appropriate types of financial arrangements and securities available to the borrower and lender.• informed the borrower and lender of their immediate, continuing, and potential liabilities under any proposed financing and security arrangements.• drafted loan or security documents which reflect the agreement between lender and borrower.• had the loan or security documents executed and (if necessary) stamped and registered them according to law.

4. Advising on revenue law and practice

- identified the possible general revenue implications of the client's proposed commercial venture or arrangement.
- referred the client to experts for more comprehensive or detailed advice, where appropriate.

Explanatory Note

This competency standard applies to commercial and corporate practice. It includes:

- some common commercial transactions, such as the sale or purchase of a small business;
- setting up standard business structures and entities, including companies;
- advising on the legal obligations of corporations and their officers;
- advising on due diligence investigations;
- identifying in a general way the possible revenue implications of standard commercial dealings and structures;
- drafting standard loan agreements and securities.

Business structures include:

- trusts;
- private companies;
- partnerships;
- joint ventures;
- franchise arrangements.

Securities include:

- bills of sale;
- chattel leases;
- loans agreements;
- guarantees, including guarantees from spouses.

Revenue implications include:

- stamp duties;
- income tax;
- capital gains tax;
- GST;
- fringe benefits tax;
- land and property taxes..

Consumer Law Practice

Descriptor: An entry level lawyer who practises in consumer law should be able to advise clients on the procedures and remedies available in relation to consumer complaints and to represent the client in any related negotiations or proceedings.

Element	Performance criteria
	The lawyer has competently:
1. Obtaining information	<ul style="list-style-type: none">• identified the situation as one to which consumer protection legislation applies.• identified the relevant legislation and any applicable case law.• identified any possible common law remedies.
2. Drafting documents	<ul style="list-style-type: none">• drafted any documents required, in accordance with the client's instructions and the relevant legislation.
3. Initiating and responding to claims	<ul style="list-style-type: none">• identified the appropriate forum for initiating or responding to a claim.• initiated a claim or taken action to oppose a claim in accordance with the rules and procedures of the relevant court or tribunal, in a timely manner.• obtained all necessary evidence and drafted all necessary documents in accordance with those rules.
4. Representing the client	<ul style="list-style-type: none">• identified all possible means of resolving the dispute to the satisfaction of the client and discussed them with the client.• completed all necessary preparation in accordance with the law, good practice and the circumstances of the matter.• represented the client effectively at any negotiation, mediation, hearing or other forum.
5. Taking action to implement outcomes	<ul style="list-style-type: none">• documented any order or settlement properly and explained it to the client in a way which the client can easily understand.• identified any procedures necessary to enforce the order or settlement and carried them out in a timely manner.

Explanatory Note

This competency standard applies to the practice of consumer law. It includes both State and Federal consumer protection legislation and codes.

Consumer protection legislation includes State and Federal legislation and codes dealing with:

- trade practices;
- misleading and deceptive conduct;
- motor car traders;
- domestic building contracts;
- consumer credit;
- residential tenancies;

A consumer protection dispute includes disputes relating to:

- trade practices;
- misleading and deceptive conduct;
- motor car traders;
- domestic building contracts;
- consumer credit;
- guarantees;
- residential tenancies;

A court or tribunal includes;

- Federal Courts;
- State Courts;
- statutory tribunals;
- industry complaint panels;
- industry Ombudsmen.

Criminal Law Practice

Descriptor: An entry level lawyer who practises in criminal law should be able to advise clients before arrest, seek bail, make pleas, participate in minor contested hearings and assist in preparing cases for trial.

Element	Performance criteria
	The lawyer has competently:
1. Providing advice	<ul style="list-style-type: none">• identified the client's legal rights and legal powers of the police or other prosecutors or investigators in the situation.• informed the client of those rights and powers in a way which the client can easily understand.• identified the legal elements of any offence with which the client is charged.• where possible, confirmed in writing any instructions given by the client in response to initial advice.• implemented the client's instructions when it is appropriate in the circumstances to do so.
2. Applying for bail	<ul style="list-style-type: none">• identified the client's options and communicated them to the client in a way the client can easily understand.• helped the client to make an informed decision about which option to select.• made an application for bail or taken other action effectively in the circumstances.• fully advised the client of any bail conditions.
3. Making pleas	<ul style="list-style-type: none">• identified the client's options and communicated them to the client in a way the client can easily understand.• identified and gathered all material useful to the plea according to law and good practice.• presented the plea in an effective and persuasive manner, having regard to the circumstances of the case.• advised the client fully of the outcome in a way the client can easily understand.

- 4. Representing a client in minor matters**
 - completed all preparation required by law, good practice and the circumstances of the case.
 - represented the client effectively at a contested hearing.

- 5. Assisting to prepare cases for trial**
 - identified and gathered the evidence needed to support the client's case.
 - identified and briefed appropriate experts (including counsel) having regard to good practice and the requirements of the case.

Explanatory Note

This competency standard applies to criminal law practice. It includes:

- advising clients before and after arrest;
- making a simple bail application on behalf of an accused person;
- making a plea in mitigation of penalty in a simple matter;
- some aspect of preparing a matter for hearing, such as briefing counsel;
- participating in a minor contested hearing.

Criminal matters include:

- traffic offences;
- domestic violence and apprehended violence orders;
- drink driving;
- drug offences.

Employment and Industrial Relations Practice

Descriptor: An entry level lawyer who practices in the area of employment and industrial relations should be able to advise clients on the relevant law and procedures, represent clients in negotiations and initiate and respond to applications in relevant State and Federal courts and tribunals.

Element	Performance criteria
	The lawyer has competently:
1. Assessing the merits of the dispute and identify the dispute resolution alternatives	<ul style="list-style-type: none">• identified the relevant facts.• assessed the strengths and weaknesses of the dispute according to the relevant law.• identified all means of resolving the dispute, having regard to the client's circumstances.
2. Advising client on procedures	<ul style="list-style-type: none">• advised the client of means to avoid a dispute, where appropriate.• advised the client of available steps to strengthen the client's position.
3. Commencing negotiations	<ul style="list-style-type: none">• explored all opportunities for a negotiated settlement, subject to the client's instructions.• represented the client effectively at any negotiations.
4. Initiating and responding to proceedings	<ul style="list-style-type: none">• identified the appropriate jurisdiction.• initiated or opposed a claim in accordance with the rules of the relevant court or tribunal, in a timely manner.• obtained all necessary evidence and drafted all necessary documents in accordance with those rules.
5. Representing the client	<ul style="list-style-type: none">• completed all preparation required by law, good practice and the circumstances.• represented the client effectively at any mediation, hearing or other forum.

- 6. Taking action to implement outcomes**
- properly documented any order or settlement and explained it to the client in a way which the client can understand.
 - identified and carried out any procedures required to enforce the order or settlement.

Explanatory Note

This competency standard applies to the practice of employment and industrial relations law at both State and Federal levels.

A dispute may involve:

- award negotiations;
- an industrial dispute relating to an individual employee or to a workplace or industry;
- an equal employment opportunity or anti-discrimination claim;
- a claim for unfair dismissal.

The means by which a dispute might be resolved include, but are not limited to:

- negotiation;
- mediation;
- conciliation;
- arbitration;
- litigation.

Steps available to a client to avoid a dispute or to strengthen the client's position include:

- altering internal employment practices and procedures;
- revising employment contracts;
- entering or revising enterprise bargaining agreements;
- altering individual employment contracts;
- taking disciplinary proceedings;
- allowing industrial representation.

Ethics and Professional Responsibility

Descriptor: An entry level lawyer should act ethically and demonstrate professional responsibility and professional courtesy in all dealings with clients, the courts, the community and other lawyers.

Element	Performance criteria
	The lawyer has competently;
1. Acting ethically	<ul style="list-style-type: none">• identified any relevant ethical dimension of a particular situation.• taken action which complies with professional ethical standards in that situation.
2. Discharging the legal duties and obligations of legal practitioners	<ul style="list-style-type: none">• identified any duty or obligation imposed on the lawyer by law in a particular situation.• discharged that duty or obligation according to law and good practice.
3. Complying with professional conduct rules	<ul style="list-style-type: none">• identified any applicable rules of professional conduct.• taken action which complies with those rules.
4. Complying with fiduciary duties	<ul style="list-style-type: none">• recognised and complied with any fiduciary duty, according to law and good practice.
5. Avoiding conflicts of interest	<ul style="list-style-type: none">• identified any potential or actual conflict, as soon as is reasonable in the circumstances.• taken effective action to avoid a potential conflict or, where a conflict has already arisen, dealt with it in accordance with law and good practice.• taken appropriate action, where applicable, to prevent such a conflict arising in the future.
6. Acting courteously	<ul style="list-style-type: none">• demonstrated professional courtesy in all dealings with others.

- 7. Complying with rules relating to the charging of fees**
- identified any rules applying to charging professional fees.
 - complied with those rules, where they are relevant.
 - maintained records and accounts in accordance with law and good practice.
- 8. Reflecting on wider issues**
- reflected on that lawyer's professional performance in particular situations.
 - brought to the attention of an employer or professional association any matters that require consideration or clarification.
 - recognised the importance of pro bono contributions to legal practice.
 - demonstrated an awareness that mismanagement of living and work practices can impair the lawyer's skills, productivity, health and family life.

Explanatory Note

This competency standard applies to:

- ethics;
- statutes and general law relating to the duties and obligations of legal practitioners;
- written and unwritten rules of professional conduct;
- written and unwritten rules of professional courtesy.

The duties and obligations imposed by law on legal practitioners include duties:

- of confidentiality;
- to maintain competence;
- to act honestly;
- not to mislead the court;
- not to pervert the course of justice or the due administration of justice.

Conflicts of interest commonly arise between:

- joint venture partners;
- directors and shareholders of a company;
- trustees and beneficiaries in a family trust;
- parties to any transaction where their interests potentially differ.

Family Law Practice

Descriptor: An entry level lawyer who practises in family law should be able to apply for dissolution of marriage, and advise and take action in relation to parenting matters property settlements, spouse maintenance and child support problems.

Element

Performance criteria

The lawyer has competently:

- 1. Applying for dissolution of marriage**
 - obtained instructions reflecting the client’s informed wishes.
 - prepared an application complying with the relevant court rules.
 - filed and served the application in accordance with those rules.
 - proved service in accordance with those rules.
 - presented the client’s application to the court effectively.

- 2. Acting in relation to ancillary matters**
 - informed the client of all options, having regard to the circumstances of the case, in a way which the client can easily understand.
 - fully prepared the client’s case having regard to the client’s circumstances, the dispute resolution process the client has decided to pursue and good practice.
 - pursued the case in accordance with good practice for the chosen dispute resolution process.
 - identified and explained to the client the revenue implications of any proposed settlement.
 - documented and acted upon any results of the chosen dispute resolution process, as required by law and good practice.

Explanatory Note

This competency standard applies to dissolution of marriage and ancillary matters arising from the breakdown of marriages or other domestic relationships. It includes:

- applying for dissolution of marriage; and
- managing a parenting or property matter in a family court up to the first directions hearing.

Ancillary matters include:

- parenting matters;
- property settlements;
- spouse maintenance;
- child support;
- domestic violence orders;

- injunctions and sole use orders;
- de facto proceedings.

Acting includes:

- participating in primary dispute resolution processes;
- informal negotiation;
- initiating or responding to court proceedings for urgent, interim or final relief.

Lawyer's Skills

Descriptor: An entry level lawyer should be able to demonstrate oral communication skills, legal interviewing skills, advocacy skills, negotiation and dispute resolution skills, and letter writing and legal drafting skills.

Element

Performance criteria

The lawyer has competently:

1. Communicating effectively

- identified the purpose of a proposed communication, the most effective way of making it, an appropriate communication strategy, and the content of the proposed communication.
- presented thoughts, advice, and submissions in a logical, clear, succinct and persuasive manner, having regard to the circumstances and the person or forum to whom the communication is made.
- identified and appropriately dealt with verbal, non-verbal and cross-cultural aspects of the proposed communication.
- taken any follow-up action in accordance with good practice.

- 2. Interviewing clients**
- prepared for the interview properly, having regard to relevant information available before the interview and the circumstances.
 - conducted the interview using communication techniques appropriate to both the client and the context.
 - ensured that the client and lawyer have both obtained all the information which they wanted from the interview in a timely, effective and efficient way, having regard to the circumstances.
 - ensured that the lawyer and client left the interview with a common understanding of the lawyer's instructions (if any) and any future action that the lawyer or client is to take.
 - made a record of the interview that satisfies the requirements of law and good practice.
 - taken any follow-up action in a timely manner.
- 3. Writing letters**
- identified the need for, and purpose of, the letter.
 - written the letter in simple, straightforward English which conveys its purpose clearly and can be easily understood by the person to whom it is sent.
- 4. Drafting other documents**
- identified the need for, and purpose, of the document.
 - devised an effective form and structure for the document having regard to the parties, the circumstances, good practice, principles of writing simple, straightforward English and the relevant law.
 - drafted the document effectively having regard to the parties, the circumstances, good practice, principles of writing simple, straightforward English, and the relevant law.
 - considered whether the document should be settled by counsel.
 - taken every action required to make the document effective and enforceable in a timely manner and according to law (such as execution by the parties, stamping, delivery and registration).
- 5. Negotiating settlements and agreements**
- prepared the client's case properly having regard to the circumstances and good practice.
 - identified the strategy and tactics to be used in negotiations and discussed them with and obtained approval from the client.
 - carried out the negotiations effectively having regard to the strategy and tactics adopted, the circumstances of the case and good practice.
 - documented any resolution as required by law or good practice and explained it to the client in a way the client can easily understand.

- 6. Facilitating early resolution of disputes**
- identified the advantages and disadvantages of available dispute resolution options and explained them to the client.
 - performed in the lawyer's role in the dispute resolution process effectively, having regard to the circumstances.
 - documented any resolution as required by law or good practice and explained it to the client in a way the client can easily understand.
- 7. Representing a client in court**
- observed the etiquette and procedures of the forum.
 - organised and presented in an effective, strategic way:
 - factual material;
 - analysis of relevant legal issues; and
 - relevant decided cases.
 - presented and tested evidence in accordance with the law and good practice.
 - made submissions effectively and coherently in accordance with law and good practice.

Explanatory Note

This competency standard applies to "composite" skills which require a lawyer to synthesise several generic skills and apply them in a specific legal context. Lawyers must be able to exercise such skills effectively.

Representation refers to advocacy on behalf of a client in a court, tribunal or other forum. It includes:

- an aspect of preliminary or pre-trial civil or criminal proceedings;
- an aspect of first instance trial advocacy in a simple matter;
- leading evidence-in-chief and making submissions.

Representation includes cross-examination and re-examination.

Dispute resolution options include:

- negotiation;
- mediation;
- arbitration;
- litigation;
- expert appraisal.

Planning and Environmental Law Practice

Descriptor: An entry level lawyer who practises in planning and environmental law should be able to advise clients on the relevant law, generally assist them in the planning process; initiate or oppose applications in, and obtain and present relevant evidence before appropriate courts or tribunals; and represent clients in various forums.

Element	Performance criteria
	The lawyer has competently:
1. Assessing the merits of the matter and advising the client	<ul style="list-style-type: none">• obtained full instructions from the client.• analysed the facts in accordance with the relevant law.• obtained and clarified any relevant technical information.• advised the client of any rights and obligations of the client and potential penalties if obligations are not observed.• identified all options and developed a plan of action in accordance with the client's instructions.• examined the commercial, political and public relations implications of any proposed action and explained them to the client.
2. Preparing applications	<ul style="list-style-type: none">• identified and analysed the relevant provisions of the relevant planning scheme.• prepared an application for development approval and submitted it to the relevant authority.• obtained any necessary plans.• identified potential grounds of objection.
3. Initiating and responding to claims	<ul style="list-style-type: none">• identified the appropriate forum for initiating or responding to a claim.• initiated or opposed a claim in accordance with the rules of the relevant court or tribunal, in a timely manner.• obtained all necessary evidence and drafted all necessary documents in accordance with those rules.

- 4. Representing the client**
 - identified all available means of resolving the matter to the satisfaction of the client and discussed them with the client.
 - completed all preparation required by law, good practice and the circumstances.
 - represented the client effectively in any negotiation, mediation, hearing or other forum.

- 5. Implementing outcomes**
 - properly documented any order or settlement and explained it to the client in a way which the client can easily understand.
 - identified and carried out any procedures to enforce the order or settlement in a timely manner.

Explanatory Note

This competency standard applies to the practice of planning and environmental law under both State and Federal legislation.

The client's rights and obligations include rights and obligations under statute and at common law.

A claim or dispute may include:

- an application for or exemption from a permit, licence, approval or other authority;
- an objection to or appeal or application for review in relation to such an application;
- a prosecution for breach of relevant legislation;
- civil action relating to either or both of planning and environmental issues.

Reference to a court or tribunal includes a body exercising statutory powers.

Preparation for providing representation in a court or tribunal may include:

- drafting written submissions;
- briefing counsel.

Problem Solving

Descriptor: An entry level lawyer should be able to investigate and analyse facts and law, provide legal advice and solve legal problems.

Element	Performance criteria
	The lawyer has competently:
1. Analysing facts and identifying issues	<ul style="list-style-type: none">• identified and collected all relevant facts as far as is practicable.• analysed the facts to identify any existing or potential legal issues.• distinguished facts that might be used to prove a claim from other facts, if the matter so requires.
2. Analysing law	<ul style="list-style-type: none">• identified any questions of law raised by the matter.• researched those questions of law properly, having regard to the circumstances.• identified and interpreted any relevant statutory provisions and applied them appropriately to the facts.
3. Providing legal advice	<ul style="list-style-type: none">• applied the law to the facts of the matter in an appropriate and defensible way.• given the client advice in a way which the client can easily understand.• kept up with any developments that might affect the accuracy of previous advice and told the client about the effect of those developments.
4. Generating solutions and strategies	<ul style="list-style-type: none">• identified the problem and the client's goals as fully as is practicable.• investigated the facts and legal issues as fully as is practicable.• developed creative options and strategies to meet the client's objectives.• identified the advantages and disadvantages of pursuing each option or strategy.• assisted the client to choose between those options in a way consistent with good practice.• developed a plan to implement the client's preferred option.• acted to resolve the problem in accordance with the client's instructions and the lawyer's plan of action.• remained open to new information and ideas and updated advice to the client where necessary.

Explanatory Note

This competency standard applies to:

- analysing facts;
- analysing legal and practical issues;
- analysing law;
- interpreting statutes;
- giving advice;
- solving problems in the context of legal practice.

Analysing law includes researching legal issues using;

- law libraries;
- on-line searches;
- electronic data bases;
- legal citators and digests.

Analysing law also includes applying principles of precedent and statutory interpretation.

Property Law Practice

Descriptor: An entry level lawyer should be able to convey, lease and mortgage real property. The lawyer should also be able to provide general advice in standard matters arising under local government, planning, environmental or other legislation regulating land use in that State or Territory.

Element

Performance criteria

The lawyer has competently:

1. Transferring title

- identified the nature of the interest being dealt with properly, having regard to the applicable title system.
- prepared an appropriate contract of sale or other type of agreement and had it executed according to law and good practice.
- undertaken sufficient searches and inquiries to investigate title, any issues about land use and responsibility for outgoings.
- drafted an appropriate instrument of transfer or conveyance and had it executed and (if necessary) stamped and registered, according to law.
- obtained or given any consents to, or notifications of, the transfer or conveyance according to law.

- 2. **Creating leases**
 - made and obtained all searches and consents required by law and good practice.
 - drafted a lease in a form allowed by law, reflecting the agreement between lessor and lessee and protecting their respective interests.
 - arranged for the lease to be executed and (if necessary) stamped and registered, according to law.

- 3. **Creating and releasing securities**
 - made and obtained all searches and consents required by law and good practice.
 - drafted an effective instrument to create or release the security, reflecting the agreement between the grantor and grantee and protecting their respective interests.
 - arranged for the instrument to be executed and (if necessary) stamped and registered, as required by law.

- 4. **Advising on land use**
 - identified any legislative scheme regulating the relevant use.
 - advised the client generally about processes to be followed to obtain permission for, or to object to the use, as the case requires.

- 5. **Advising on revenue implications**
 - identified the revenue implications of any transaction and advised the client accordingly.

Explanatory Note

This competency standard applies to dealings with interests in real and leasehold property, land use and securities. It must include:

- contracts for sale of land including special conditions;
- transferring title (or equivalent interest under the scheme of land title that exists in the particular State or Territory);
- creating standard commercial leases;
- creating standard residential tenancies or leases;
- creating and releasing of mortgages;
- some aspect of land use.

The competency standard includes dealings under the main system of land title operating in the jurisdiction in which the lawyer practises. For example, in Queensland it would include dealings in respect of freehold title under the *Land Title Act* 1994.

Aspects of land use might involve issues arising out of :

- town planning schemes;
- local government by-laws;

- environment and heritage legislation;
- revenue and tax legislation.

This competency standard is limited to:

- any one system of land title operating in a State or Territory;
- transactions which an entry level lawyer would be expected to perform.

Trust and Office Accounting

Descriptor: An entry level lawyer should have sufficient knowledge, skills and values to maintain trust and general account records according to law and good practice, to the extent usually permitted and expected of an employed solicitor.

Element	Performance criteria
	The lawyer has competently:
1. Receiving money	<ul style="list-style-type: none"> • dealt with money received from or on behalf of a client, as required by law and good practice. • where the law and good practice requires money to be deposited in a trust account or general account, recorded the deposit as required by law and good practice. • issued any receipt required by law and good practice.
2. Making outlays	<ul style="list-style-type: none"> • made any outlay from the correct account, according to law and good practice. • recorded the outlay as required by law and good practice.
3. Rendering costs	<ul style="list-style-type: none"> • calculated the costs in accordance with law, good practice and any agreement between the lawyer and client. • added to the bill all outlays made by the firm for which the client is responsible. • accounted to the client for any money received from the client on account of costs and outlays, as required by law and good practice. • drafted the bill and delivered it in accordance with law and good practice.
4. Maintaining Trust account	<ul style="list-style-type: none"> • maintained any trust account in accordance with specific statutory requirements, including any requirements relating to common fund deposits and auditing.

Explanatory Note

This competency standard applies to trust and general accounting . It requires a general knowledge of bookkeeping and knowledge of the solicitors' trust account law and practice and auditing requirements in the lawyer's jurisdiction.

Wills and Estates Practice

Descriptor: An entry level lawyer who practises in wills and estates should be able to draft wills, administer deceased estates and take action to solve problems about wills and estates.

Element

Performance criteria

The lawyer has competently:

1. Drafting wills

- advised the client of issues, options, and potential problems that might arise in respect of the client's testamentary intentions.
- obtained instructions reflecting the client's informed and independent wishes, which can be effectively implemented.
- drafted a will reflecting the client's instructions.
- identified any issues of testamentary capacity and resolved them in accordance with law and good practice.
- ensured that the client executed the will in accordance with law.
- given any necessary follow up advice to the client.

2. Administering deceased estates

- obtained a grant of probate or letters of administration where required.
- identified the debts and assets of the estate.
- gathered in the estate or transferred or transmitted assets directly to beneficiaries, as appropriate, having regard to the law, good practice, and the circumstances.
- discharged the estate's debts, distributed specific gifts and the residue and ensured that the executors have been released of their obligations in a timely fashion.

- 3. Taking action to resolve wills and estates problems**
- identified the nature of the problem properly, having regard to the law of the jurisdiction.
 - identified the client's options for dealing with the problem, having regard to the law of the particular jurisdiction and the client's circumstances.
 - explained the options to the client in a way the client can easily understand.
 - taken action to resolve the problem in accordance with the client's instructions.

Explanatory Note

This competency standard applies to wills and deceased estate practice. It must include:

- drawing standard wills;
- obtaining an uncontested grant of letters of administration on an intestacy or probate where a will exists;
- administering a standard deceased estate;
- helping solve at least one common type of will or estate problem.

Wills and estates problems include:

- testamentary capacity;
- construction;
- validity of the will;
- validity of gifts;
- assets outside the jurisdiction;
- revenue issues;
- family provision;
- mutual wills;
- trusts;
- informal wills;
- testamentary directions.

Follow up advice required may include:

- the effects of marriage on a will;
- the effects of divorce on a will;
- storage options;
- revocation;
- modification;
- availability of associated documents such as enduring powers of attorney.

Work Management and Business Skills

Descriptor: An entry level lawyer should be able to manage workload, work habits, and work practices in a way that ensures that clients' matters are dealt with in a timely and cost effective manner.

Element	Performance criteria
	The lawyer has competently:
1. Managing personal time	<ul style="list-style-type: none">• used a diary or other system to record time limits or deadlines and to assist in planning work.• identified conflicting priorities as they arise and managed the conflict effectively.• used available time effectively, to the benefit of the lawyer's clients and employer.
2. Managing risk	<ul style="list-style-type: none">• conducted each matter in a way that minimises any risk to the client, lawyer or firm arising from missed deadlines, negligence or failure to comply with the requirements of the law, a court or other body.• recognised the limits of the lawyer's expertise and experience and referred the client or matter to other lawyers, counsel or other professionals, as the circumstances require.
3. Managing files	<ul style="list-style-type: none">• used a file management system to ensure that work priorities are identified and managed; clients' documents are stored in an orderly and secure manner; and to alert the lawyer to any need to follow up a matter or give it other attention.• rendered timely bills, in accordance with law and any agreement between the lawyer and client, which set out the basis for calculating the lawyer's fees.• accurately recorded all communications and attendances, with details of dates and times.
4. Keeping client informed	<ul style="list-style-type: none">• communicated with the client during the course of the matter as frequently as circumstances and good practice require.• confirmed oral communications in writing when requested by the client or required by good practice.• dealt with the client's requests for information promptly.• informed the client fully of all important developments in the matter, in a way which the client can easily understand.

5. Working cooperatively

- worked with support staff, colleagues, consultants and counsel in a professional and cost effective manner.

Explanatory Note

This competency standard applies to the exercise of good work habits in a legal practice to ensure that:

- clients do not suffer loss or damage from a lawyer missing deadlines or neglecting matters;
- clients are kept informed regularly and fully of the progress of their matters;
- clients' matters are dealt with in a cost-effective manner.

SCHEDULE 4

PRINCIPLES FOR ASSESSING PRACTICAL LEGAL TRAINING QUALIFICATIONS OF APPLICANTS FROM OTHER COUNTRIES

1. Practical Legal Training Competencies

An applicant for admission must show that the applicant has acquired and demonstrated appropriate understanding of, and competence in, the Practical Legal Training Competencies for Entry-level Lawyers, set out in Schedule 3.

2. Definition

2.1 For the purposes of these Principles **eligible applicant** means an applicant who:

- (a) in the case of an applicant who has been admitted for less than 5 years, constantly been in active practice since being admitted; or
- (b) in the case of an applicant who has been admitted for 5 years or more:
 - (i) has been in active practice for some or all of the preceding 2 years; and
 - (ii) has not been absent from active practice for more than 5 years in the 10 years before applying for admission in Australia.

2.2 An applicant will be deemed to be in active practice, if the applicant produces evidence which shows that the applicant:

- (a) immediately before coming to Australia, was practising as an admitted practitioner in the applicant's home jurisdiction for a period of at least 3 months; and
- (b) within Australia, is employed in a law practice, or the legal office of a corporation or government department, at a level and with responsibilities comparable to those of an Australian legal practitioner; and
- (c) is supervised at work by an Australian legal practitioner.

2.3 An applicant will be taken to have been in active practice, if the applicant has not been absent for practice for the purpose of moving countries, or changing employment, or illness or holidays, for more than a total of three months during the relevant period.

3. Compulsory elements

Every applicant will be required to undertake additional studies in Australia in:

Trust and Office Accounting
Ethics and Professional Responsibility.

4. **Possible exemptions**

An eligible applicant may be exempted from undertaking additional studies in Australia in one or more of the following Skills and Practice Areas:

Skills

1. Lawyer's Skills
2. Problem Solving
3. Work Management and Business Skills

Practice Areas

4. Civil Litigation Practice
5. Commercial and Corporate Practice
6. Property Law Practice
7. One of the following:
 - Administrative Law Practice
 - Criminal Law Practice
 - Family Law Practice
8. One of the following:
 - Consumer Law Practice
 - Employment and Industrial Relations Practice
 - Planning and Environmental Law Practice
 - Wills and Estate Practice

5. **Category 1 applicant**

- 5.1 An eligible applicant who has undertaken a PLT course leading to admission in one of the following Category 1 countries:

England
Northern Ireland
Scotland
Ireland
Canada (except Quebec)
South Africa

Singapore
Malaysia
Hong Kong,

is a Category 1 applicant.

- 5.2 A Category 1 applicant, who has been admitted to practise in the manner of a *solicitor*, will usually be exempt from all additional requirements except:

Trust and Office Accounting
Ethics and Professional Responsibility.

- 5.3 A Category 1 applicant who has been admitted to practise only in the manner of a *barrister* will usually be required to undertake:

Trust and Office Accounting
Property Law Practice
Ethics and Professional Responsibility.
Work Management and Business Skills

and, depending upon the scope of the applicant's previous practice after admission:

Commercial and Corporate Practice
One optional Practice Area from each of Group 6 and 7 in item 4.

- 5.4 A Category 1 applicant may further be exempted from undertaking additional studies in one of the optional Practice Areas, if the applicant has acquired and demonstrated appropriate understanding of, and competence in, an Area of Practice not included in Group 7 or 8 in item 4 and shows that the applicant has been working in that Practice Area for at least 25% of the applicant's practice during the preceding 2 years.

- 5.5 If an eligible applicant has been admitted in a Category 1 country, but did *not* complete a PLT course leading to admission before being admitted in that country, the applicant will also be required to undertake:

Lawyer's Skills.
Problem Solving.
Work Management and Business Skills,

unless the applicant clearly demonstrates how each of these Skills has been acquired in the applicant's subsequent practice.

6. **Category 2 applicants**

- 6.1 An eligible applicant who:

- (a) has been admitted to practice in the United States of America; and
(b) after admission to practice has, for a period of at least 2 years, had continuous experience in one or more of the following Practice Areas:

Civil Litigation Practice
Commercial and Corporate Practice
Criminal Law Practice
Wills and Estates Practice

is a Category 2 applicant.

6.2 A Category 2 applicant will usually be exempted from:

Lawyer's Skills
Problem Solving
Work Management and Business Skills,

and whichever of the Competencies mentioned in item 6.1(b) in which the applicant has had the experience required by that item.

6.3 A Category 2 applicant may further be exempted from undertaking additional studies in one of the optional Practice Areas, if the applicant has acquired and demonstrated appropriate understanding of, and competence in, an Area of Practice not included in Group 7 or 8 in item 4 and shows that the applicant has been working in that Practice Area for at least 25% of the applicant's practice during the preceding 2 years.

6.4 A Category 2 applicant will, in all cases, be required to undertake:

Trust and Office Accounting
Property Law Practice
Ethics and Professional Responsibility

and such other compulsory or optional Practice Areas for which exemption is not granted.

7. **Category 3 applicant**

7.1 An eligible applicant who:

- (a) has been admitted to legal practice in other than a Category 1 or 2 country or jurisdiction; and
- (b) who after admission has, for a period of at least 2 years, had continuous experience in a Category 1 jurisdiction in one or more of the following Practice Areas:

Civil Litigation Practice
Commercial and Corporate Practice
Criminal Law Practice
Wills and Estates Practice,

is a Category 3 applicant.

7.2 A Category 3 applicant will usually be exempted from:

Lawyer's Skills
Problem Solving
Work Management and Business Skills,

and whichever of Competencies mentioned in item 7.1.(b) in which the applicant has the experience required by that item.

7.3 A Category 3 applicant may further be exempted from undertaking additional studies in one of the optional Practice Areas, if the applicant has acquired and demonstrated appropriate understanding of, and competence in, an Area of Practice not included in Group 7 or 8 in item 4 and shows that the applicant has been working in that Practice Area for at least 25% of the applicant's practice during the preceding 2 years.

7.4 Such an applicant will, in all cases, be required to undertake:

Trust and Office Accounting
Property Law Practice
Ethics and Professional Responsibility

and such other compulsory or optional Practice Areas for which exemption is not granted.

8. **Category 4 applicant**

8.1 An eligible applicant who is not a Category 1,2 or 3 applicant is a Category 4 applicant.

8.2 A Category 4 applicant may be exempted from undertaking one or more of the Skills, Practice Areas and Values set out in item 4, if the applicant produces evidence in an appropriate form that either before or after being admitted to legal practice, the applicant has acquired and demonstrated appropriate understanding and competence in, the relevant Skill, Practice Area or Value.

9. **Form of application for exemption**

9.1 An application for an exemption from the usual requirements for any Category of applicant will only be in an appropriate form if it:

- (a) (subject to sub-clause 9.2) explicitly sets out how the applicant has acquired and demonstrated appropriate understanding and competence in the relevant Skill, Practice Area or Value for which exemption is sought; and
- (b) shows how the practice undertaken by the applicant has satisfied each relevant performance criterion set out in the PLT Competencies for that Skill, Practice Area or Value; and
- (c) is corroborated by evidence from the applicant's employer or a person with whom the applicant has been associated in practice, verifying each of the matters referred to in paragraphs (a) and (b).

9.2 Documentary evidence that a Category 1 applicant has successfully completed a particular Skill, Practice Area or Value of the PLT course conducted by a PLT provider in that Category 1 country will satisfy the requirement in paragraph 9.1(a).

9.3 Documentary evidence that an applicant has undertaken, and has been assessed as successfully completing, a skills or work training element of a recognised Continuing Legal Education program in another country may be evidence in an appropriate form for the purposes of paragraphs 9.1(a) and (b).

9.4 If evidence adduced by an applicant does not comply with each of the requirements in item 9.1, the application for exemption must not be granted.