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Admission Requirements For Overseas Lawyers

The Admissions and Registration Committee (the Committee) of the Legal Practice Board (the Board) has delegated responsibility for, amongst other things, assessing overseas legal practitioners and law graduates seeking admission as lawyers in WA and providing advice to the Supreme Court of WA as to whether such applicants are eligible to be admitted in Western Australia.

From time to time the Board receives queries regarding the eligibility requirements and whether they are unnecessarily onerous.

In Western Australia, the admitting authority is the Supreme Court. The court is the ultimate entity with authority to determine whether or not to admit a person to the legal profession. The court is obliged to obtain and consider the advice of the Board as to whether an applicant is eligible for admission, with the Legal Profession Act 2008 setting out the matters to be considered by the Board and the court in the process. Hence, the statutory function of the Board in this context is confined to advising the Supreme Court on an applicant's suitability for admission. Historically, the court has accepted and acted (in most instances) upon the advice of the Board.

The Board is certainly not on its own when it comes to dealing with the issue of the eligibility of overseas qualified applicants to be admitted in Australia as Australian lawyers, entitled to practise Australian law. Other jurisdictions face similar challenges with regard to overseas lawyers. The underlying principle of the applicable legislation in the various Australian jurisdictions is that admission in any one Australian jurisdiction confers a right to practise law in any other corresponding jurisdiction.

Essentially for this reason, the Council of Chief Justices established the Law Admissions Consultative Committee (the LACC). The LACC consists of representatives of the Law Admitting Authority in each Australian jurisdiction. Its focus is on developing uniform criteria for assessing any person seeking to be admitted to the Australian legal profession, including assessing the qualifications of persons who hold overseas gained overseas qualifications.

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

- (a) completed an academic course leading to a right to engage in legal practice in the applicant's home jurisdiction, which course is substantially equivalent to a three year full time law course that leads to admission to the legal profession in Australia ; and
- (b) successfully completed subjects, either as part of that course or otherwise, which are substantially equivalent to the areas of study which Australian applicants must successfully complete

before being admitted to the legal profession in Australia (known as the Priestly 11 subjects); 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 (PLT requirements); and
- (d) undertaken, or been exempted from, the International English Language Testing System Academic Module (IELTS) test within two years before seeking admission in Australia, 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.

An admitting authority may dispense with one or more of the requirements referred to in items (b) and (c) in the case of an experienced practitioner from an overseas jurisdiction if it considers that the applicant's experience is sufficiently relevant, substantial and current to justify such dispensation. The Committee considers any practitioner with more than 7 years' post admission experience in the applicant's home jurisdiction as an experienced practitioner for this purpose. This policy is applied by all admitting authorities, who regularly share data to compare their application of the policy and whether any changes to the policy are required.

The policy (Policy) adopted by all Australian admitting authorities and Boards outlining the minimum criteria for all overseas applicants seeking admission to the Australian legal profession (a LACC initiative) is entitled *The Uniform Principles for Assessing Overseas Qualified Applicants*. A link to that policy document is available on the Board's website: www.lpbwa.org.au.

The present view of the Committee is that the cooperative approach represented by the establishment and the Board's involvement in the LACC is fundamental to maintaining consistent minimum standards for admission to the Australian legal profession and avoiding 'forum shopping' by applicants. Hence, before any decision is made by the Board to depart from the current application of the Policy it would firstly liaise with the LACC to obtain the views of other jurisdictions before making any decision to alter the Board's current practices.

The Board has over time discussed this issue with a number of interested stakeholders and has listened to their concerns and provided feedback. It also welcomes any comments from members of the legal profession regarding the issue of the criteria for determining the eligibility for admission of prospective foreign lawyer employees.