**LEGAL PROFESSION ADMISSION GUIDELINES**

In these Guidelines:-

“*the Act*” is the Legal Profession Act 2006.

“*the Board*” is the Legal Practitioners Admission Board of the Northern Territory.

“*the Court*” is the Supreme Court of the Northern Territory.

“*the Disclosure Guidelines*” is the document titled “Disclosure Guidelines For Applicants For Admission To The Legal Profession” published by *LACC*.

“*LACC*” is the Law Admissions Consultative Committee

“*the pro forma affidavit*” is the precedent affidavit for admission applicants on *the Court’s* website.

“*the Rules*” are the Legal Profession Admission Rules.

“*the Supreme Court Rules*” are the Rules of Court made under the Supreme Court Act*.*

“*the NSW Board*” is the New South Wales Legal Practitioners Admission Board.

A reference to a section in legislation refers to that section in *the Act* unless otherwise stated.

A reference to a rule refers to that rule in *the Rules* unless otherwise stated.

**1. INTRODUCTION**

Persons are admitted under *the Act* as “*local lawyers*” (sections 4, 5(b) and 25). *The Rules* provide for the admission of local lawyers as “*local applicants*”, being persons applying for admission on the basis of qualifications obtained in Australia (rules 2 and 10), or as “*overseas applicants*”, being persons with qualifications obtained in a foreign country (rules 2 and 12).

Applicants must be both eligible for admission and suitable for admission. *The Board* is required to advise *the Court* whether it considers an applicant for admission satisfies both requirements (see generally sections 11, 25, 29, 30 and 35).

It is important that applicants read the relevant sections of *the Act* and *the Rules* carefully before applying for admission or directions.

*LACC* has published Model Admission Rules. These can be found on *LACC’s* website (http://www.lawcouncil.asn.au/LACC). The Model Admission Rules form the basis of many of the provisions in *the Rules*, as well as the corresponding rules in other Australian jurisdictions. Certain requirements specified by *the Board* are based on the Model Admission Rules. The Model Admission Rules may therefore prove to be a good resource to assist applicants in the preparation of their applications for admission.

Failure to comply with all requirements may result in the rejection of the documents by the Registry or *the Board* may decline to deal with the application, until full compliance occurs.

The completed applications, namely the Originating Motion and the supporting affidavit annexing all relevant and required documents, must be filed by 4pm on the Wednesday in the week preceding the relevant meeting of *the Board*. Applications filed after this time will only be dealt with by *the Board* with the prior approval of the Chairperson of *the Board*. That approval is not routinely given and will only be given if there is a satisfactory reason for the late filing and otherwise if good reason exists to grant the approval. Failure to allow sufficient time for post or delivery of documents is not ordinarily regarded as a satisfactory reason for this purpose.

Any other documents relating to an application before *the Board*, such as an application for directions, must also be lodged within the same time period. In the case of supplementary affidavits, *the Board* **may** determine to consider such documents notwithstanding late filing.

A filing fee is payable at the time of lodgement of the application. The filing fee is payable to the “Receiver of Territory Monies”.

A copy of the documents must also be served on the Law Society. The documents are to be served at least three business days, not counting the day of filing, before *the Board* meets.

The Law Society may be served by sending the documents to GPO Box 2388, Darwin, NT 0801, or by delivering them to Level 3, 9 Cavenagh Street, Darwin, or the Law Society’s Court Box at the Supreme Court.

It is each applicant’s responsibility to ensure that documents satisfying all requirements are filed and served within the required times. In particular, due allowance needs to be made where documents are not lodged in person and an applicant is taken to assume the risk of delayed delivery due to post, couriers etc.

The meeting dates in 2020 are 18 February, 21 April, 23 June, 18 August and 17 November. Dates for subsequent years can be ascertained on enquiry to the Supreme Court Registry.

In 2020 *the Court* will hear applications for admission in Darwin on 3 March, 5 May, 7 July, 1 September and 1 December. Dates for subsequent years can be ascertained on enquiry to the Supreme Court Registry. Admissions in Alice Springs may be arranged at the convenience of the visiting Judge.

**1. ELIGIBILITY**

Eligibility for admission relates to the “*approved academic qualifications*” and the “*approved practical legal training requirements*” for admission (see sections 4, 10 and 29(1), rules 4, 5 and Schedules 3 and 4 of *the Rules*).

**1.1 Overseas Qualifications**

The qualifications training and experience required of an overseas applicant must equate as closely as reasonably practicable to those required of a local applicant (rule 14(1)). An applicant who relies on qualifications obtained overseas must first apply to *the Board* for directions (see rule 13). An assessment of the applicant’s qualifications will almost invariably be required.

*The Board* does not itself conduct those assessments and instead directs applicants to apply to *the NSW Board* for an assessment of their qualifications. Applicants are then to seek adoption of that assessment by *the Board*, together with any necessary consequential directions, via an Application for Directions. *The Board* usually adopts the assessments of *the NSW Board* without variation.

**1.2 Certificates from Educational Institutions**

Eligibility for admission in respect of academic qualifications and practical legal training requirements is usually determined by *the Board* based on certificates from the relevant educational institution (refer rule 10(2)(b) and (c) and paragraphs 5 and 7 of *the pro forma affidavit*).

Where an applicant has studied at an interstate University or Practical Legal Training provider, certificates which certify compliance with the equivalent rules to rules 4 and 5 in the jurisdiction where the study was undertaken are sometimes provided as evidence of academic qualifications and/or practical legal training requirements. That is **not** acceptable in an application for admission in the Northern Territory. The certificates **must** in every case certify compliance with the requirements of *the Rules*, not the rules of another jurisdiction irrespective of the similarity of any interstate rules.

In some cases an applicant may have undertaken study at more than one University. A degree may be conferred by one university after having granted status for study at another University. In that situation, the applicant’s academic record (refer paragraph 4 of *the pro forma affidavit*) often only notes that a status credit was given without any further details such as where the study was undertaken and when. Reliance on that academic record alone may therefore mean that there is insufficient evidence to enable *the Board* to determine that the applicant has the necessary academic qualifications or whether any of those qualifications are stale (see below). In such cases, the supporting affidavit should specify where and when any study which forms part of an applicant’s “*approved academic qualifications*” was undertaken. Although unusual, a similar situation can arise in respect of the *practical legal training requirements* where an applicant has undertaken a practical legal training course with more than one Practical Legal Training provider.

Further, where an applicant has been granted status for study undertaken at another University, if status has been granted for a subject which forms part of an applicant’s “*approved academic qualifications*”, the certificate required by rule 10(2)(b) (see paragraph 5 of *the pro forma affidavit*) in respect of any such subject is required to be obtained from the University where the applicant undertook the study for that subject. Likewise, if applicable, in respect of “*approved practical legal training requirements*” and the certificate required by rule 10(2)(c) (see paragraph 6 of *the pro forma affidavit*). An appropriate amendment is required to paragraph 5 and/or paragraph 6, as the case may be, of *the pro forma affidavit* in either case. *The Board* will only accept a certificate as evidence of “*approved academic qualifications*” or “*approved practical legal training requirements*” if it is given by the educational institution where the study or training, as the case may be, was undertaken.

**1.3 Stale Qualifications**

One aspect of the Model Admission Rules which has been specifically adopted by *the Board* relates to what are vernacularly referred to as “stale” qualifications (refer paragraphs 2(2) and 3(3) of the Model Admission Rules and paragraph 6 of *the pro forma affidavit*). As a result, this is a matter which an applicant must address to satisfy *the Board* in respect of its approval of academic qualifications and practical legal training requirements pursuant to section 10 of *the Act*. The purpose of the requirement is to ensure that academic qualifications and practical legal training competencies are current as at the time of the application for admission.

Therefore the supporting affidavit is required to disclose whenever any required academic qualification or practical legal training competency have been obtained more than 5 years before the filing of the application for admission. This is to enable *the Board* to determine if, and what, further study will be required before the applicant will be considered eligible for admission.

In some cases *the Board* will make that determination without necessarily requiring further information, e.g., where the qualifications are just outside the 5 year period. Often however *the Board* requires further information by affidavit, e.g., the reason for the delay and the work or study undertaken by the applicant in the interim. In cases of long delays *the Board* has required applicants to obtain course outlines of the stale subjects as they were at the time of study together with current course outlines for the same or corresponding subjects from the same institution. Where major changes have occurred in the relevant law since the study was undertaken *the Board* will likely require an applicant to undertake additional study. For example, if an applicant has stale qualifications in the Law of Evidence and that study occurred prior to the enactment of the Uniform Evidence Legislation, further study will likely be required depending on the circumstances of the particular case.

**2. SUITABILITY**

Determining suitability for admission requires the applicant to satisfy *the Board* that the applicant is a “*fit and proper person*” for admission to the legal profession (sections 25 and 30). In determining fitness, section 30(1)(a) requires *the Board* to have regard to the “*suitability matters*” set out in section 11(1) and *the Board* may also have regard to “*any other matter it considers relevant*” (section 30(1)(b)).

Applicants for admission are required to disclose any matter which might be relevant to *the Board* in considering both of these requirements. The applicant **must** state whether any of the “suitability matters” set out in section 11(1) of *the Act* apply to the applicant and that is specifically provided for in *the pro forma affidavit*.

**2.1 Disclosures**

In particular, and very relevant to an applicant’s fitness, is the suitability matter in section 11(1)(c) which makes any “conviction” for a criminal offence a “suitability matter”. However, *the Board* considers that any criminal offending, whether resulting in a conviction or a finding of guilt or otherwise, is a relevant matter for the purposes of section 30(1)(b). (See also paragraph 5(c) of *the Disclosure Guidelines*.)

In respect of criminal offending, the effect of rule 18(1) is that an offence which comes within the definition of “*excluded offence*” in rule 17 is not required to be disclosed. This includes certain offences under the *Traffic Act*, parking offences and offences which are spent records pursuant to the *Criminal Records (Spent Convictions) Act.* An applicant may, but need not, disclose such offending.

*The Disclosure Guidelines* are designed to assist applicants in determining what conduct should be disclosed and the requisite level of detail that should be disclosed. *The Disclosure Guidelines* need to be read in conjunction with *the Act* and *the Rules*. *The Disclosure Guidelines*, as modified for the Northern Territory, are available on *the Court’s* website. Applicants are required to consult *the Disclosure Guidelines*. The affidavit in support of the application for admission requires applicants to acknowledge that they have read, understood and have had regard to *the Disclosure Guidelines* when making their application and supporting affidavit.

**3. SUNDRY REQUIREMENTS**

**3.1 Forum**

In general it is expected that an applicant for admission will apply in the jurisdiction most appropriate to the applicant having regard to, for example, where the applicant is ordinarily resident or where the applicant’s qualifications were obtained or according to any other relevant circumstances. Where the Board is not satisfied that the Northern Territory is the most appropriate forum for the application it may decline to deal with the application on that ground. Therefore where it is not otherwise evident from the applicant’s affidavit that the Northern Territory is the most appropriate forum for the application, the applicant should explain why admission is sought in the Northern Territory.

**3.2 Language Requirements**

If the first language of an overseas applicant is not English, the applicant must satisfy *the Board* that the applicant has sufficient knowledge of written and spoken English to engage in legal practice (rule 16). For this purpose the Board has adopted the LACC Uniform English Language Testing Policy which is available on the LACC website.

**4. THE APPLICATION**

**4.1 General**

The application for admission is made to *the Court* (section 25) by Originating Motion and supporting affidavit, filed in triplicate. *The pro forma affidavit*, and these Guidelines, set out the matters required to be deposed to in the supporting affidavit.

The Originating Motion must comply with all of the requirements set out in *the Supreme Court Rules*, for example, Rule 6.05(1) in respect of the address for service endorsed on the Originating Motion.

The supporting affidavit must also comply with the general requirements of affidavits as set out in *the Supreme Court Rules*. Order 43 of *the Supreme Court Rules* sets out requirements as to form, content etc. In addition, Practice Direction 3 of 2009 has additional requirements in relation to pagination and tabbing of annexures. Affidavits must be made in accordance with Part 3 of the *Oaths, Affidavits and Declarations Act*.See generally *the pro forma affidavit*.

Documents which fail to comply with any of the requirements will not be accepted for filing without the prior approval of the Chairperson of *the Board* and for demonstrated good reason.

*The pro forma affidavit* sets out the documents which are to be annexed to the affidavit.

**4.2 Criminal History Checks**

*The Board* requires that each applicant provide a national criminal history check. As the level of disclosure in criminal history checks varies according to the jurisdiction where the application is made, as well as the purpose for the criminal history check that is stipulated on the application, *the Board* has made special arrangements with SAFE NT to ensure that the required level of disclosure is made in the criminal history check. For that reason *the Board* will only accept a criminal history check obtained on application to SAFE NT. Further, so that SAFE NT can identify an application as one required for admission purposes and therefore provide the required level of disclosure, *the Board* requires that the purpose stated on the application precisely be: “*NT Supreme Court proceedings for admission as a lawyer*”. To verify that the application has been made to SAFE NT and that the correct purpose has been stipulated, *the Board* requires applicants to depose to this in their supporting affidavit and to annex a true copy of the application for the criminal history check to the supporting affidavit, as well as any other document required to establish that the application was made to SAFE NT, e.g., a receipt issued by SAFE NT if that is not apparent from the application.

SAFE NT accepts applications online and that form of application is acceptable to *the Board*. Applicants should however ensure that a copy of the application is printed or otherwise obtained so that it can be annexed to their supporting affidavit. Likewise in respect of any other document that may be required, such as a receipt.

*The Board* has additional requirements in respect of criminal history checks where an applicant has lived, worked or studied in an overseas jurisdiction. In such cases applicants should file an application for directions, to be considered by *the Board* at a meeting preceding the meeting where the applicant intends to apply for admission, seeking directions as to *the Board’s* specific requirements. Once *the Board* has specified its requirements, satisfactory compliance with those requirements will be sufficient without more to ensure that *the Board* can deal with that aspect of the application. The application for directions should be accompanied by an affidavit setting out details of where and when (specifying the periods) the applicant has resided overseas and their age during those periods. The same details should be provided in respect of places where the applicant has undertaken study or has been in employment.

If an application for directions cannot be made, it **may** be sufficient if an applicant obtains a criminal history check from each overseas jurisdiction where they resided for a substantial period as an adult, and where they undertook studies, and where they were employed for a substantial period. In that event, the criminal history checks and the applications for those checks, and translations if necessary, are to be annexed to the supporting affidavit and that affidavit should set out the same details as would otherwise be required for the application for directions referred to in the preceding paragraph. The affidavit must also provide an explanation as to why the application for directions was not made as required. Ignorance of this requirement is not looked upon favourably by *the Board*.

As a general rule *the Board* considers that a continuous period of three months or more, or an aggregate period of three months or more in any 12 month period, is a “substantial period”. This should be taken as a guide only and this reflects what *the Board* has commonly required in recent times. However, absent a specific direction following an application for directions, there is no guarantee that *the Board* will not have additional requirements in individual cases. In that event a deferral of the application to the next meeting of *the Board* will ordinarily be required. Applicants wishing to avoid that possibility should follow the application for directions process.

In respect of criminal history checks generally, the Board does not accept criminal history checks issued by private organisations. Only official criminal history checks issued by the government, or an agency of the government, of the jurisdiction to which the criminal history checks relates are acceptable. If compliance with this requirement is not apparent on the face of the criminal history check, applicants should depose to compliance in their affidavit and annex appropriate documentary verification.

**4.3 Referee’s Certificates**

Rule 10(2)(d) requires an applicant to provide two certificates as to the applicant’s good fame and character. The certificates are to be annexed to the supporting affidavit (see *pro forma affidavit* paragraph 8). Rule 3(1) sets out the specific requirements for those certificates, in particular the referee must be a person who is of standing in the community and who has known the applicant for at least three years and who is not closely related to the applicant by blood or marriage. Applicants need to ensure that the certificates they provide comply with the requirements of the rule and they are required to confirm that the referee is not closely related to the applicant by blood or marriage and that the referee has known the applicant for at least three years, in the supporting affidavit (see *pro forma affidavit* paragraph 8). The referee should also acknowledge both matters in the certificate.

Rule 3(2) sets out the minimum content required of the certificates. Importantly, rule 3(2)(c) provides that referees are to acknowledge any matter that might adversely affect the question of whether the applicant is a fit and proper person to be admitted. Clearly this requires that an applicant has informed the referee of all disclosures which the applicant makes. The referee’s certificate should acknowledge the specific disclosures made by an applicant and must acknowledge that the disclosures do not affect their assessment of the fitness of the applicant for admission. (See also paragraph 7 of *the Disclosure Guidelines*).

**5. ARTICLED CLERKS**

The provisions as to articles of clerkship are set out in Part 6 of *the Rules*.

A person entering into Articles must apply to *the Board* for approval (rule 19(2)). An applicant for approval must comply with the disclosure requirements as apply to applications for admission mutatis mutandis.

Two certificates of good fame and character are required from persons of standing in the community who have known the applicant for at least three years (rules 3 and 20).

*The Board* must be satisfied that the Articles will enable the applicant to achieve the level of competence required by the competency standards (rule 19(4)(d)). The principal must provide details of the nature and scope of the legal work to be undertaken and the extent of the supervision and training to be provided with detailed reference to the competency standards.

For the purposes of calculating the period of one year’s satisfactory service under Articles, the period may include up to 4 weeks annual leave and one weeks sick leave. An applicant for admission must depose to any leave taken.