

**ADMISSION TO PRACTICE  
IN AUSTRALIA  
OF  
OVERSEAS QUALIFIED LAWYERS**

**International Legal Services Advisory Council (ILSAC)  
Attorney-General's Department, Canberra**

**December 2005**

This Paper has been prepared by the International Legal Services Advisory Council (ILSAC), a part-time advisory Council to the Australian Attorney-General, for consideration by the Attorney-General in regard to a number of issues concerning admission of overseas qualified lawyers to practise the law of Australia.

The initial draft of the Paper and its findings were forwarded to each jurisdiction's assessing body for comment through the Law Council of Australia in June 2005. Comments and corrections were incorporated where received. ILSAC's recommendations have been developed following review of the Paper by ILSAC members in November and December 2005.

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December 2005

## 1. Executive Summary

Applicants seeking admission to practice in Australia<sup>1</sup> on the basis of their overseas qualifications require assessment of their qualifications and directions as to what further steps are required to meet the local requirements for admission. Once these steps are completed, applicants then follow the same or similar procedures for admission as local applicants.

The assessment of overseas qualifications and experience by each jurisdiction varies considerably. The following are points of variation that exist between Australian jurisdictions:

- **Eligibility for assessment** – ranges from persons who have commenced but not completed law degrees to overseas qualified and admitted lawyers.
- **Form of applications** – some jurisdictions require separate applications for assessment of academic and practical legal training qualifications.
- **Composition of assessing bodies** – vary in number (between 6 and 53) and composition (different combinations of, and not necessarily including academics, members of the judiciary and legal professionals).
- **Assessment of knowledge requirements** – varies between requiring no additional study to requiring subjects in addition to the Priestly 11 depending on academic training, and varies even where the academic training of applicants is very similar.
- **Where additional study can be undertaken** – ranges from any Australian law school to a particular school or institution.
- **Assessment of practical legal training requirements** – depending on experience (but inconsistently applied) range between no further practical training required to requirements to undertake PLT courses and/or work experience as a law clerk for up to 12 months.
- **Time required to gain admission** – ranges between two months and four years depending on qualifications and experience, but also varies where qualifications and experience are very similar.
- **Transparency of process** – ranges from published guidelines and making the results of previous applications available to no readily available information for applicants.

In Australia once a lawyer is admitted to practise in one jurisdiction they are able to gain admission in all other Australian jurisdictions under mutual recognition rules. For this reason it is important that applications for admission of overseas qualified lawyers are handled consistently across all jurisdictions.

The National Legal Profession Project undertaken by the Standing Committee of Attorneys-General recognises the need for consistency of treatment of foreign lawyers seeking registration as foreign legal consultants in Australia. It would seem logical to extend this work to overseas qualified lawyers seeking admission to practice Australian domestic law.

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<sup>1</sup> Admission to practice in Australia means admission as a legal practitioner in one or more Australian jurisdictions to practice the law of Australia. Foreign lawyers (or overseas qualified lawyers) may be registered in certain Australian jurisdictions to practise the law of a place other than Australia.

If the inconsistencies identified in this paper remain unaddressed the quality of overseas qualified lawyers allowed to practise domestic law in Australia will vary and the different admission processes are likely to be exploited by applicants who will choose to pursue their application through the jurisdiction which offers the least burdensome requirements.

It is also noted that Australia's ability to negotiate favourable trade outcomes for Australian trained lawyers seeking to practise the law of another jurisdiction overseas is hampered by the current inconsistent regime for admitting overseas qualified lawyers in Australia.

Having created an hospitable environment for foreign legal consultants to work in Australia in home country, third country and international law, Australia should put in place a set of nationally consistent guidelines for admission of overseas qualified lawyers. It is suggested that the existing guidelines in each jurisdiction be used as the basis of the national guidelines and that careful attention be given to the Law Admissions Consultative Committee's national minimum competency standards.

The guidelines could be made readily available to prospective applicants, thereby satisfying the requirements for transparency and consistency. It is suggested that in developing such guidelines consideration be given to: prescriptive remedies for deficiencies in academic qualifications and practical legal training experience, the institutions at which further study can be undertaken, the composition of assessing bodies, time to be spent assessing applications, and form of applications.

## **2. Overview of the admission process**

Due to the operation of mutual recognition provisions in each State and Territory's legislation governing the practice of law and the recently devised National Practising Certificate Scheme, lawyers admitted to practice in one Australian jurisdiction can gain practice rights in all other Australian jurisdictions. This applies equally to lawyers trained both inside and outside Australia.

Applicants seeking admission to practice in Australia on the basis of their overseas qualifications require assessment of their qualifications and directions as to what further steps are required to meet the local requirements for admission. Once these steps are completed, applicants then follow the same or similar procedures for admission as local applicants.

### *2.1 Eligibility for assessment*

The category of persons eligible for assessment varies between the jurisdictions (see Table 1) and ranges from persons who have commenced but not completed the academic requirements for admission overseas (New South Wales) to overseas admitted legal practitioners (Tasmania). The Australian Capital Territory admission rules do not allow for admission of overseas qualified persons as the Legal Practitioners Admission Board does not have the resources to assess overseas qualifications<sup>2</sup>.

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<sup>2</sup> Telephone Interview with Debbie Sims, Executive Secretary, Law Society of the Australian Capital Territory (12 November 2004)

## 2.2 *Applying for assessment*

The relevant bodies in each of the jurisdictions which assess overseas qualifications are set out in Table 2. One application is required for assessment of both knowledge requirements and practical legal training and experience requirements except in New South Wales and Queensland. An applicant is required to lodge an application together with particulars of academic and professional qualifications and experience<sup>3</sup>, verifying documentation<sup>4</sup> and payment of a fee<sup>5</sup>.

## 2.3 *Assessing bodies*

The membership of the bodies which assess the applications can range from 6 to 53 members with quorums ranging from 3 to 7 members per meeting. The assessment is determined by a sub-committee of the Board in New South Wales<sup>6</sup> and Western Australia<sup>7</sup> and determined by a majority decision based on the recommendations of a committee in Victoria<sup>8</sup>, assessment of the University of Adelaide Law School in South Australia<sup>9</sup>, recommendations of a board member (who is currently professor of law at the University of Tasmania) in Tasmania<sup>10</sup>, and the assessment of the Charles Darwin University in the Northern Territory<sup>11</sup>. In Queensland, the Legal Practitioners Admission Board accepts the assessment of the overseas practitioners' qualifications from a university law school approved by the Board<sup>12</sup>.

Members of the legal profession are represented on all certifying bodies. Members of the academic community are represented in New South Wales, Victoria, Tasmania and the Northern Territory. Members of the judiciary are represented in all jurisdictions except Queensland and Western Australia.

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<sup>3</sup> Particulars usually include details of academic and professional qualifications attained, details of the applicant's admission in overseas jurisdiction and status of that admission, details of any disciplinary proceedings and, in Victoria, details of any criminal charges.

<sup>4</sup> Verifying documentation usually includes original or certified copies of his or her academic and professional qualifications, academic records, official description of academic law subjects studied, admission and practising certificates and, in some jurisdictions, testimonial statements from other practitioners as to the applicant's practical experience and character references.

<sup>5</sup> New South Wales: \$140 for assessment of academic qualifications, \$120 for assessment of practical training and experience; Victoria: no fee payable; Queensland: \$250 for assessment of academic qualifications, no fee set at present for assessment of practical training and experience but is expected to also be \$250; Western Australia: \$250; South Australia: \$220; Tasmania: \$200; Northern Territory: \$300.

<sup>6</sup> Interview with Monica Bhattacharya, Team Leader, Legal Practitioners Admission Board, New South Wales (7 December 2004). Academic Exemption Sub-Committee consisting of two academics and a Judge assess academic qualifications and the Practical Training Exemption Sub-committee consisting of a barrister, an academic from the University of Wollongong and a Judge assess the practical legal training and experience.

<sup>7</sup> The Admissions and Registration Committee: telephone interview with Mary-Anne Paton, Legal Practice Board, Western Australia (5 January 2005).

<sup>8</sup> Telephone interview with Lorraine Cornabe, Council for Legal Education, Victoria (14 December 2004).

<sup>9</sup> Telephone interview with David Milne, Secretary, Board of Examiners, South Australia (16 December 2004).

<sup>10</sup> Telephone interview with George O'Neal, Secretary, Board of Legal Education, Tasmania (15 December 2004).

<sup>11</sup> Telephone interview with Margaret Rischbieth, Secretary, Legal Practitioners Board, Northern Territory (21 December 2004).

<sup>12</sup> Telephone Interview with Melissa Timmins, Secretary, Legal Practitioners Admission Board, Queensland, (2 December 2004). At this stage, it is undetermined as to whether the Board may have or adopt a similar process for practical training requirements: email from Melissa Timmins, Secretary, Legal Practitioners Admission Board, Queensland, (1 February 2005).

The purpose of the assessment is to ensure that an overseas qualified applicant meets the same requirements imposed on local applicants prior to admission. That is, the overseas applicant meets the Priestley Eleven knowledge requirements and has equivalent practical legal training and experience as that of a local applicant<sup>13</sup>. However, an overview of the assessment process and outcomes in the different jurisdictions demonstrates that different outcomes can be obtained in different jurisdictions.

#### 2.4 *Period of time required to gain admission*

To gain admission, overseas applicants in New South Wales can take anywhere between two months (usually applicants with considerable practical legal experience from England and Wales) and four years (applicants from civil law jurisdictions who are required to complete all Priestly Eleven areas of knowledge and the PLT course)<sup>14</sup>.

In Victoria, a minimum of six months will be spent before an applicant can gain admission. An overseas graduate who has not been admitted to practice in their home jurisdiction would be required to complete the same practical training requirements as unadmitted local graduates – that is to do articles or otherwise undertake a practical legal training course. A person who has been admitted overseas will not be required to do articles but will be required to be employed as a law clerk for between six and twelve months, before being eligible for Victorian admission. Additional study requirements may also be imposed on applicants in Victoria regardless of their practice experience and dependant on the nature of their formal legal training<sup>15</sup>.

Applicants in Western Australia, South Australia and Tasmania can expect it to take a minimum of six to twelve months before they are eligible for admission. Applicants will frequently be required to undertake further study and in Western Australia and South Australia may also be required to work as an articulated clerk or law clerk.

No overseas applicants have been admitted under the recently introduced admission rules in Queensland and the Northern Territory<sup>16</sup>. Applicants in Queensland could expect a minimum of six to twelve months before they are eligible for admission as they will be required to undertake study in at least one or two subjects and possibly complete a PLT course, articles or an associateship (or a combination of articles and associateship)<sup>17</sup>.

The minimum time required to gain admission in the Northern Territory will be longer. The legal profession in Darwin is very small and there are only six Supreme Court Judges. Under the previous rules, an overseas applicant would apply for assessment of academic qualifications by Charles Darwin University and then apply

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<sup>13</sup> This was confirmed by telephone interviews with representatives of the certifying bodies. A list of the Priestly Eleven areas of knowledge can be found in Attachment 1 of the *Supreme Court (Legal Practitioner Admission) Rules 2004* (Qld). See Queensland Parliamentary Commissioner's website at <<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/S/SuprCrtQLPARu04.pdf>> (viewed 23 February 2005).

<sup>14</sup> Interview with Monica Bhattacharya, Team Leader, Legal Practitioners Admission Board, New South Wales (7 December 2004).

<sup>15</sup> Written comments received from G Owen and S D Clark of the Victorian Committee for considering Overseas Applications (appointed by Victorian Council of Legal Education 28 June 2005)

<sup>16</sup> Telephone Interview with Melissa Timmins, Secretary, Legal Practitioners Admission Board, Queensland, (2 December 2004); telephone interview with Margaret Rischbieth, Secretary, Legal Practitioners Board, Northern Territory (21 December 2004).

<sup>17</sup> Telephone Interview with and email from with Melissa Timmins, Secretary, Legal Practitioners Admission Board, Queensland, (1 February 2005).

to the Supreme Court for directions. Owing to a lack of resources, Charles Darwin University outsourced the assessment to an interstate university thereby creating a delay. The small number of Supreme Court judges meant there was a delay in getting the matter set down for a directions hearing. At the directions hearing, the applicant would make submissions to the Court on his or her practical training and experience. The Court would then give directions on what further academic and practical training and experience would be required for admission<sup>18</sup>.

The current Northern Territory rules require applicants to seek assessment from the Legal Practitioners Board instead of the Supreme Court. There is still the delay caused by the outsourcing of assessments of knowledge base requirements by Charles Darwin University to interstate universities. The process under the old and new rules is time consuming, partly due to resource issues. Given the low volume of applications no consideration has been given to the need for allocating additional resources or the likely costs involved<sup>19</sup>.

### **3. Knowledge Requirements**

#### *3.1 Overview*

In all jurisdictions, local applicants are required to complete three academic years of full-time tertiary study of law covering the Priestly Eleven areas of knowledge<sup>20</sup>. Similarly, all jurisdictions seek to ensure overseas applicants meet the Priestly Eleven knowledge requirements prior to their admission<sup>21</sup>, overseas applicants in Tasmania may also be required to study additional elective subjects<sup>22</sup>. A summary of the knowledge requirements in the different jurisdictions is set out at Table 3.

#### *3.2 Consistency*

The procedure for assessment of the knowledge requirements of overseas applicants in the jurisdictions is set out in Table 3 and the following points are notable:

- The membership base of certifying bodies assessing overseas applicants' knowledge requirements ranges from 6 to 53 members with quorums ranging from 3 to 7 members per meeting.
- Whilst the legal profession is represented on all bodies, academics are not represented in Queensland, Western Australia and South Australia.
- In some jurisdictions, the assessment is determined by a committee, while in others it is determined by a majority decision at the meeting of the certifying

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<sup>18</sup> Telephone interview with Margaret Rischbieth, Secretary, Legal Practitioners Board, Northern Territory (21 December 2004).

<sup>19</sup> Written comments sent 03 August 2005 from Terence Coulehan, Chairperson Northern Territory Legal Practitioners' Admission Board

<sup>20</sup> New South Wales: *Legal Practitioners Admission Rules 1994* (NSW), rule 95; Victoria: *Legal Practice (Admission) Rules 1999* (Vic), rule 2; Queensland: *Supreme Court (Legal Practitioners Admission Rules) 2004* (Qld), rule 6; Western Australia: *Legal Practice Board Rules 2004* (WA), rule 32; South Australia: *Legal Practitioners Education and Admission Council Rules 2004* (SA), rule 2.2; Tasmania: *Legal Practice Act 1993* (Tas), s23, *Legal Profession (Board of Legal Education) Rules 1994* (Tas), rule 5; Australian Capital Territory: *Supreme Court (Admission of Legal Practitioners) Rules 1998* (ACT), rule 5(1); Northern Territory: *Legal Practitioner Admission Rules* (NT), rule 11.

<sup>21</sup> This was confirmed in telephone discussions with representatives of all certifying bodies except the Australian Capital Territory.

<sup>22</sup> Supreme Court of Tasmania, *Overseas Lawyers Admission to Practice Law in Tasmania*, viewed 19 January 2005, <<http://www.courts.tas.gov.au/supreme/lawyers/overseas.htm>>.

body based on the recommendations of a board member, committee or the report of a third party such as a university law school. In Queensland, applicants apply directly to any Queensland university law school for the assessment.

- The certifying bodies in some jurisdictions rely on in-house knowledge and experience gained from previous applications while others seek outside assistance or expert advice.

The different assessment procedures give rise to inconsistency both within and across jurisdictions. Representatives of the certifying bodies in New South Wales, Victoria, Western Australia, South Australia and Tasmania advised that where their applicants are from the same overseas jurisdiction they can expect to receive the same or similar assessments unless the subjects studied by the applicants were different.

In Queensland, overseas applicants apply directly to a university law school for an assessment of their knowledge requirements. The university makes a recommendation on what further study should be required of the applicant and the Board then approves the university's recommendation<sup>23</sup>. This has sometimes led to inconsistent assessments between universities and, as a result, 'forum shopping' for the most favourable assessment has reportedly occurred<sup>24</sup>.

The university assessments depend on the jurisdiction of origin. Practitioners from Common Law jurisdictions are generally required to undertake less additional academic study than those from a non-Common Law jurisdiction. The assessment of applications is based on information provided by each applicant, and may vary depending on the quantity and quality of that information<sup>25</sup>.

In the Northern Territory, the Legal Practitioners Board sends applications for assessment to Charles Darwin University which are then outsourced to an interstate university for assessment<sup>26</sup>. This could give rise to inconsistency<sup>27</sup>.

The outcomes of assessments across the different jurisdictions can be illustrated as follows:

- Legal practitioners with considerable experience from common law jurisdictions may receive an exemption from undertaking additional study in New South Wales but can expect to study Constitutional Law and possibly Administrative Law or Real Property Law in all other jurisdictions.
- Applicants may be required to study some non-Priestly Eleven subjects in Tasmania.
- Applicants in New South Wales are almost never required to complete an entire law degree but other jurisdictions may require applicants to complete subjects in satisfaction of all 11 of the Priestly requirements. In these

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<sup>23</sup> Email from Melissa Timmins, Secretary, Legal Practitioners Admission Board, Queensland, (1 February 2005).

<sup>24</sup> Telephone Interview with Melissa Timmins, Secretary, Legal Practitioners Admission Board, Queensland, (2 December 2004).

<sup>25</sup> Email from Melissa Timmins, Secretary, Legal Practitioners Admission Board, Queensland, (1 February 2005).

<sup>26</sup> Telephone interview with Margaret Rischbieth, Secretary, Legal Practitioners Board, Northern Territory (21 December 2004).

<sup>27</sup> Telephone interview with Margaret Rischbieth, Secretary, Legal Practitioners Board, Northern Territory (21 December 2004).

circumstances applicants are undertaking the majority of an Australian law degree.

Without a detailed study of the individual assessments undertaken in each jurisdiction, it is difficult to determine the full scope and extent of inconsistencies amongst jurisdictions. However, 'forum shopping' to avoid studying certain subjects does seem to occur, demonstrating that inconsistencies do exist and are being exploited.

The options available to applicants who wish to study the subjects required for admission are set out below:

- Applicants who are assessed by the certifying bodies in Queensland, South Australia, Tasmania and the Northern Territory can study the required subjects at any Australian university. Applicants in Queensland, South Australia and the Northern Territory may choose to undergo the New South Wales Legal Practitioners Admission Board exams instead of studying at a university.
- Applicants assessed by the certifying bodies in Victoria and Western Australia are assessed on the basis that they will study the required subjects at a university in those respective states and should consult with the certifying body should they wish to study interstate.
- Applicants assessed by the New South Wales Legal Practitioners Admission Board are assessed on the basis that they will sit for the Board exams. Applicants who study the required subjects elsewhere including any university in New South Wales will be required to obtain a further assessment from the Board for an additional fee. In addition, applicants who are still overseas cannot sit the Board exams and must study the required subjects externally through an Australian university<sup>28</sup>.

### 3.3 *Transparency of the assessment process*

Transparency assists applicants to assess the likely outcome of their application and to determine what grounds of appeal s/he may have should s/he disagree with the assessment. Based on the assessment procedures described earlier and the publicly available information, it is fair to conclude that there is considerable divergence in the levels of transparency across Australian jurisdictions.

Given that all jurisdictions undertake the assessment of knowledge base requirements on a case-by-case basis, it is not possible to predict the likely outcome of any one assessment. Victoria has detailed (and regularly updated) guidelines which set out practices adopted for applicants for over 40 jurisdictions, however these guidelines are not made available to applicants. Applicants in New South Wales can get a general indication of how their application will proceed given the extensive information published on the New South Wales Legal Practitioners Admission Board website<sup>29</sup>. Detailed information is not readily available in other jurisdictions although the certifying bodies in Western Australia, Victoria, South Australia and Tasmania do provide some information on their websites to assist overseas applicants gain admission<sup>30</sup>, and advise that applicants can obtain additional information upon

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<sup>28</sup> Some universities such as the University of New England offer law courses externally.

<sup>29</sup> New South Wales Legal Practitioners Admission Board, *Academic Exemptions Guidelines for Overseas Applicants*, 22 March 2004, available at [http://www.lawlink.nsw.gov.au/lpab.nsf/pages/overseas\\_academic](http://www.lawlink.nsw.gov.au/lpab.nsf/pages/overseas_academic) (viewed 5 November 2004).

<sup>30</sup> Victoria: Although the Council of Legal Education does not provide any information on the internet, the Victorian Government has published information online at [http://www.liveinvictoria.vic.gov.au/Web13/rwpgslib.nsf/GraphicFiles/JobSheetLegalProfessions/\\$fil](http://www.liveinvictoria.vic.gov.au/Web13/rwpgslib.nsf/GraphicFiles/JobSheetLegalProfessions/$fil)

request<sup>31</sup>. In addition, the Legal Practice Board in Western Australia publishes the number of applications received and assessed as well as the number of overseas applicants admitted to practice and whether they received an exemption from further practical training requirements<sup>32</sup>.

There is no information published by the certifying bodies in Queensland<sup>33</sup> or the Northern Territory<sup>34</sup> to assist overseas applicants. The admission rules in Queensland and Northern Territory provide little or no guidance and overseas applicants can only obtain the necessary information by contacting the certifying bodies or the universities that make the assessment.

#### 3.4 *Whether the knowledge base requirements are unduly burdensome.*

The requirement that overseas applicants meet the same knowledge requirements required of local applicants prior to admission is not unduly burdensome. In certain circumstances applicants may be required to study subjects they have previously covered as part of their overseas qualifications (eg Constitutional Law which in another jurisdiction would not cover Australian Federal Constitutional Law)<sup>35</sup>.

However, it should be noted that overseas applicants in Tasmania might be required to study non-Priestly Eleven subjects to qualify for admission. Whilst this would not be essential to admission in another jurisdiction, local applicants in Tasmania are also required to study certain non-Priestly subjects to gain admission.

Applicants from certain overseas jurisdictions might be required to study all eleven Priestly areas of knowledge. This will occur if the certifying body is of the view that the applicant's home jurisdiction's legal system bears no resemblance to the Australian legal system. Applicants from jurisdictions that do bear a resemblance to Australia may also be required to study all eleven Priestly areas of knowledge. This occurs where an assessment of the home institution or qualification is determined to be less than equivalent to Australian standards.

Applicants who are assessed by the certifying bodies in Victoria and Western Australia are not free to undertake the study of additional subjects at any Australian

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e/JobSheetLegalProfessions.htm> (viewed 17 January 2005); Western Australia: Legal Practice Board of Western Australia, *Admission to Practice in Western Australia pursuant to s27(2)(b) of the Legal Practice Act 2003*, <[http://www.lpbwa.org.au/apln\\_27\\_2b.html](http://www.lpbwa.org.au/apln_27_2b.html)>, (viewed 18 January 2005); South Australia: Law Society of South Australia, *Legal Practitioners Registry*, <[http://www.lssa.asn.au/profession/services\\_for\\_the\\_profession.htm](http://www.lssa.asn.au/profession/services_for_the_profession.htm)>, (viewed 12 November 2004); Tasmania: Supreme Court of Tasmania, *Circular Memorandum – Overseas Lawyers – Admission to Practice Law in Tasmania*, <<http://www.courts.tas.gov.au/supreme/users/lawyers/overseas.htm>> (viewed 19 January 2005).

<sup>31</sup> Telephone interview with Mary-Anne Paton, Legal Practice Board, Western Australia (5 January 2005); telephone interview with David Milne, Secretary, Board of Examiners, South Australia (16 December 2004); telephone interview with George O'Neal, Secretary, Board of Legal Education, Tasmania (15 December 2004), and written comments received from G Owen and S D Clark of the Victorian Committee for considering Overseas Applications (appointed by Victorian Council of Legal Education 28 June 2005).

<sup>32</sup> Legal Practice Board of Western Australia, *Report for the period 1 July 2002 30 June 2003*, at page 13, available at <<http://www.lpbwa.org.au/pdf/lpbannrep.pdf>> (viewed 15 February 2005).

<sup>33</sup> Although the *Legal Profession Act 2004* and the *Supreme Court (Legal Practitioners Admission Rules) 2004* are accessible at the Office of the Queensland Parliamentary Counsel website at <<http://www.legislation.qld.gov.au/OQPChome.htm>>.

<sup>34</sup> Although the *Legal Practitioners Act* and the *Legal Practitioner Admission Rules* are accessible at the Northern Territory Legislative Assembly website at <<http://notes.nt.gov.au/dcm/legislat/legislat.nsf/d989974724db65b1482561cf0017cbd2?OpenView>>.

<sup>35</sup> Written comments received from G Owen and S D Clark of the Victorian Committee for considering Overseas Applications (appointed by Victorian Council of Legal Education 28 June 2005).

university, but may be permitted to do so after consulting with the relevant certifying body<sup>36</sup>. Applicants to The New South Wales Legal Practitioners Admission Board may either undertake its Board exams or take equivalent examinations at any Australian university, however the latter option will require a second assessment at an additional fee of \$140<sup>37</sup>.

#### 4. Practical Legal Training Requirements

##### 4.1 Overview

All jurisdictions have agreed to the Law Admissions Consultative Committee's national minimum competency standards<sup>38</sup> as the minimum standard for practical legal training<sup>39</sup>. Local applicants can satisfy the practical legal training requirements by completing a Practical Legal Training course in New South Wales<sup>40</sup>, Victoria<sup>41</sup>, Queensland<sup>42</sup>, South Australia<sup>43</sup>, Tasmania<sup>44</sup>, Northern Territory<sup>45</sup> and Australian Capital Territory<sup>46</sup> or by serving one year as an articled clerk in Victoria<sup>47</sup>, Queensland<sup>48</sup>, Western Australia (supplemented by the Articles Training Program)<sup>49</sup>, South Australia<sup>50</sup>, the Northern Territory<sup>51</sup>, and two years as an articled clerk in Tasmania<sup>52</sup>.

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<sup>36</sup> Telephone interviews with Lorraine Cornabe, Council for Legal Education, Victoria (14 December 2004) and Mary-Anne Paton, Legal Practice Board, Western Australia (5 January 2005).

<sup>37</sup> New South Wales Legal Practitioners Admission Board, *Admission for Overseas Practitioners*, viewed 15 February 2005, <http://www.lawlink.nsw.gov.au/lpab.nsf/pages/osprac> and written comments received from Roger Wescombe, Executive Officer NSW Legal Practitioners Board 02 August 2005..

<sup>38</sup> Australian Professional Legal Education Council, Law Admissions Consultative Committee, *Legal Training – Competency Standards for Entry Level Lawyers*, November 2000

<sup>39</sup> See note to clause 307 of the Model Bill.

<sup>40</sup> *Legal Practitioners Admission Rules 1994* (NSW), rule 96.

<sup>41</sup> *Legal Practice (Admission) Rules 1999* (Vic), rule 3.01.

<sup>42</sup> *Supreme Court (Legal Practitioner Admission) Rules 2004*, rule 7.

<sup>43</sup> *Legal Practitioners Education and Admission Council Rules 2004* (SA), rule 2.4(a).

<sup>44</sup> *Legal Profession Act 1993* (Tas), section 23.

<sup>45</sup> *Legal Practitioner Admission Rules* (NT), rules 12 and 13.

<sup>46</sup> *Supreme Court (Admission of Legal Practitioners) Rules 1998* (ACT), rule 6.

<sup>47</sup> *Legal Practice (Admission) Rules 1999* (Vic), rule 3.01.

<sup>48</sup> *Supreme Court (Legal Practitioner Admission) Rules 2004*, rule 7 and Attachment 2. One year articles will commence on 1 July 2005: Legal Practitioners Admission Board, *Transitional Admission Rules*, < [http://www.qls.com.au/document\\_get.aspx?id=2263](http://www.qls.com.au/document_get.aspx?id=2263)>, viewed 27 January 2005.

<sup>49</sup> *Legal Practice Board Rules 2004* (WA), rule 34.

<sup>50</sup> *Legal Practitioners Education and Admission Council Rules 2004* (SA), rule 2.4(c). However, no applicant has served as an articled clerk in South Australia for the past twenty years: telephone interview with David Milne, Secretary, Board of Examiners, South Australia (16 December 2004).

<sup>51</sup> *Legal Practitioner Admission Rules* (NT), rule 12(1)(b)(i). However, it is unlikely that local applicants will apply for articles as either a) few practitioners in the Northern Territory are prepared to employ articled clerks (telephone interview with Margaret Rischbieth, Secretary of the Legal Practitioners Board, Northern Territory (21 December 2004)) or b) it is too difficult for practitioners to satisfy the PLT requirements on their own (written comments dated 03 August 2005 from Terence Coulehan, Chairperson Northern Territory Legal Practitioners Admission Board).

<sup>52</sup> *Legal Profession Act 1993* (Tas), section 24. Section 25 allows for local applicants without a law degree to pass the Board of Legal Education exams and serve five years as an articled clerk. No applicant has served as an articled clerk under section 24 for the past eight years and articles under section 25 are even rarer: telephone interview with George O'Neal, Secretary, Board of Legal Education, Tasmania (15 December 2004).

Overseas applicants seeking recognition of their overseas practical legal training must have it assessed against the local practical legal training requirements<sup>53</sup>. An overview of the practical legal training requirements is set out at Table 4.

#### 4.2 Consistency

The assessment procedure adopted by the certifying bodies can be grouped as follows:

- In New South Wales and Western Australia, practical legal training requirements are assessed by a sub-committee and committee respectively<sup>54</sup>.
- There have been no assessments of practical legal training requirements under the current rules in Queensland. It is likely that an overseas applicant will be required to seek an assessment from a university law school in that State for an additional fee<sup>55</sup>.
- The Board of Examiners in South Australia and the Legal Practitioners Board in the Northern Territory determine the assessment by majority decision at their meetings<sup>56</sup>.
- The Certifying bodies in Victoria and Tasmania make a decision based on the recommendations of a committee in the former case<sup>57</sup> and the recommendations of a board member who is a Professor of Law at the University of Tasmania in the latter case<sup>58</sup>.

In most cases, the certifying body bases its decision on in-house knowledge and expertise. In addition, the Licensing Committee of the New South Wales Law Society sends its own recommendation to the Legal Practitioners Admission Board<sup>59</sup>. In South Australia, the Board of Examiners keeps a catalogue of previous assessments and refers to it when assessing the practical legal training requirements of overseas applicants<sup>60</sup>.

No overseas applicants have had their practical training and experience assessed in Queensland under the current rules. At this stage, the Board has not determined the assessment process. As with the knowledge requirements, it is possible that the assessment will be outsourced to university law schools in Queensland and will focus primarily on the applicant's practical legal training rather than his or her professional experience. In the past, the universities in Queensland have assessed the practical

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<sup>53</sup> Model Bill, clause 307 and note.

<sup>54</sup> Interview with Monica Bhattacharya, Team Leader, Legal Practitioners Admission Board, New South Wales (7 December 2004); telephone interview with Mary-Anne Paton, Legal Practice Board, Western Australia (5 January 2005).

<sup>55</sup> Telephone interview with Melissa Timmins, Legal Practitioners Admission Board, Queensland (February 2005).

<sup>56</sup> Telephone interview with David Milne, Secretary, Board of Examiners, South Australia (16 December 2004); telephone interview with Margaret Rischbieth, Secretary of the Legal Practitioners Board, Northern Territory (21 December 2004). The Master has the casting vote in the Legal Practitioners Board in the Northern Territory.

<sup>57</sup> Telephone interview with Lorraine Cornabe, Council for Legal Education, Victoria (14 December 2004).

<sup>58</sup> Telephone interview with George O'Neal, Board of Legal Examiners, Tasmania (15 December 2004).

<sup>59</sup> Interview with Karen Burrard, New South Wales Law Society (7 December 2004).

<sup>60</sup> Telephone interview with David Milne, Board of Examiners, South Australia (16 December 2004).

legal training of overseas practitioners as part of the assessment of academic qualifications<sup>61</sup>.

The approach adopted by the certifying bodies in assessing overseas applicants' practical training and experience can be summarised as follows:

- The New South Wales Legal Practitioners Admission Board assesses overseas applicants' past experience and training against the LACC national minimum competency standards. In addition, the length and breadth of their practical experience and where they obtained that experience is also considered<sup>62</sup>.
- In Queensland, it is expected that any assessment will focus on overseas applicants' practical legal training and the extent to which it is consistent with practical legal training requirements for local applicants<sup>63</sup>.
- In Victoria, Western Australia and South Australia, the certifying bodies examine the length and type of experience of the overseas applicant, that is, whether the applicant: has worked in the academic or non-academic sector; has full-time or part-time experience; or has worked in the private or public sector. If the applicant has worked in the private sector, they examine whether s/he was as an employee, in house counsel, partner, sole practitioner, the size of the firm involved and whether the applicant was in a general or specialised practice<sup>64</sup>.
- In Tasmania, the Board of Legal Education places greater importance on the applicant's knowledge base qualifications and considers that applicants who have previous experience in legal practice should be competent to practice in Tasmania<sup>65</sup>.

The outcomes of the assessments in each of the jurisdictions are as follows:

- The New South Wales Legal Practitioners Admission Board will grant an exemption from completing further practical legal training to overseas applicants with significant experience in a broad range of practice in a common law jurisdiction. Where such an exemption is granted applicants will still be required to undertake examinations in Professional Responsibility and Trust and Office Accounting<sup>66</sup>.

Following recent amendments to rule 98 and form 17 New South Wales advises that their Board now assesses practical training on a competency by

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<sup>61</sup> Email from and telephone interview with Melissa Timmins, Secretary, Legal Practitioners Admission Board, Queensland, (1 February 2005).

<sup>62</sup> Interview with Monica Bhattacharya, Team Leader, Legal Practitioners Admission Board, New South Wales (7 December 2004).

<sup>63</sup> Telephone interview with Melissa Timmins, Secretary, Legal Practitioners Admission Board, Queensland, (1 February 2005).

<sup>64</sup> Telephone interview with Lorraine Cornabe, Council for Legal Education, Victoria (14 December 2004); telephone interview with Mary-Anne Paton, Legal Practice Board, Western Australia (5 January 2005); telephone interview with David Milne, Secretary, Board of Examiners, South Australia (16 December 2004).

<sup>65</sup> Telephone interview with George O'Neal, Board of Legal Education, Tasmania (15 December 2004).

<sup>66</sup> Written comment received from Roger Wescombe, Executive Officer NSW Legal Practitioners Board 02 August 2005.

competency basis so that applicants whose experience has been only as a barrister can obtain exemptions in a number of skill and practice areas<sup>67</sup>.

- Western Australia<sup>68</sup> and Tasmania<sup>69</sup> do exempt overseas practitioners with considerable experience from further practical legal training.
- It is unclear whether exemptions will be granted in Queensland and the Northern Territory. Exemptions were granted on a few occasions under the previous rules although only after applicants successfully applied for exemptions to the Supreme Court<sup>70</sup>.
- Overseas applicants will not receive an exemption from further practical legal training in Victoria and South Australia<sup>71</sup>. In Victoria applicants with greater than five years practice experience will usually be required to work for at least six months as a law clerk, while those applicants with less than 5 years experience will usually be required to complete studies in Civil Procedure and work as a law clerk for 12 months<sup>72</sup>.

Applicants from the same overseas jurisdiction with a similar number of years experience in legal practice are likely to get a similar assessment in Tasmania if their work experience is very similar<sup>73</sup>. In South Australia, applicants with similar types of experience for similar periods of time are likely to receive similar assessments, even if they are from different jurisdictions<sup>74</sup>. Applicants from the same jurisdiction with similar years of experience will not receive a similar assessment in Victoria and Western Australia unless the types of practice (that is, public versus private sector, academic versus non-academic sector, part-time versus full-time employment, etc) are also similar<sup>75</sup>. Applicants from the same jurisdiction with a similar number of years

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<sup>67</sup> Written comment received from Roger Wescombe, Executive Officer NSW Legal Practitioners Board 02 August 2005.

<sup>68</sup> Legal Practice Board of Western Australia, *Report for the period 1 July 2002 30 June 2003*, at page 13-14, available at < <http://www.lpbwa.org.au/pdf/lpbannrep.pdf>> (viewed 15 February 2005). Five of the eleven overseas practitioners admitted in Western Australia were admitted without undertaking Western Australian articles of clerkship. However, the report does not state if those five practitioners completed further practical training interstate or were granted an exemption from further practical training. Three practitioners were from the United Kingdom, one from South Africa and one from the United States.

<sup>69</sup> Telephone interview with George O'Neal, Board of Legal Education, Tasmania (15 December 2004).

<sup>70</sup> Telephone interview with Melissa Timmins, Secretary, Legal Practitioners Admission Board, Queensland, (2 December 2004); email from and telephone interview with Melissa Timmins, Secretary, Legal Practitioners Admission Board, Queensland, (1 February 2005); telephone interview with Margaret Rischbieth, Secretary, Legal Practitioners Board, Northern Territory (21 December 2004).

<sup>71</sup> Telephone interview with Lorraine Cornabe, Council for Legal Education, Victoria (14 December 2004); telephone interview with David Milne, Secretary, Board of Examiners, South Australia (16 December 2004).

<sup>72</sup> Written comments received from G Owen and S D Clark of the Victorian Committee for considering Overseas Applications (appointed by Victorian Council of Legal Education 28 June 2005).

<sup>73</sup> Telephone interview with George O'Neal, Board of Legal Education, Tasmania (15 December 2004).

<sup>74</sup> Telephone interview with David Milne, Secretary, Board of Examiners, South Australia (16 December 2004).

<sup>75</sup> Telephone interview with Lorraine Cornabe, Council for Legal Education, Victoria (14 December 2004); telephone interview with Mary-Anne Paton, Legal Practice Board, Western Australia (5 January 2005).

experience cannot expect a similar assessment in New South Wales for the reasons noted above<sup>76</sup>.

The practical legal training requirements for overseas applicants who do not receive an exemption are as follows:

- Overseas applicants are required to complete an approved PLT Course in New South Wales. Applicants who receive an exemption are still required to undertake short courses on Trust Accounting and Professional Conduct<sup>77</sup>.
- In Tasmania and Northern Territory, overseas applicants who do not receive an exemption will be required to do the Legal Practice Course in Hobart<sup>78</sup> and the Graduate Diploma in Legal Practice in the Northern Territory (or another PLT course approved by the Board)<sup>79</sup>.
- Applicants in Victoria and South Australia and those who do not receive an exemption in Western Australia will be required to serve six to twelve months as an articulated clerk in Victoria and Western Australia and three to twelve months as a law clerk in South Australia. Applicants in Western Australia may also be required to undertake the Articles Training Program. The purpose for the clerkship in those States is to familiarise the applicant with legal practice in Australia and to ensure less experienced applicants have the same skills as local applicants<sup>80</sup>.
- Applicants in Queensland who do not receive an exemption will be required to complete a PLT course in Queensland, articles or an associateship (or a combination of supervised practical training and associateship)<sup>81</sup>.

#### 4.3 *Transparency*

Transparency issues in the assessment of knowledge base requirements also apply to assessment of practical legal training requirements.

#### 4.4 *Whether the practical legal training requirements are unduly burdensome*

Complaints regarding the assessment of practical legal training requirements have been received from applicants for admission in New South Wales<sup>82</sup> while reportedly Victoria, Western Australia, South Australia and Tasmania have received very few

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<sup>76</sup> Interview with Monica Bhattacharya, Team Leader, Legal Practitioners Admission Board, New South Wales (7 December 2004).

<sup>77</sup> New South Wales Legal Practitioners Admission Board, *Admission for Overseas Practitioners*, viewed 15 February 2005, <<http://www.lawlink.nsw.gov.au/lpab.nsf/pages/osprac>>; interview with Monica Bhattacharya, Team Leader, Legal Practitioners Admission Board, New South Wales (7 December 2004).

<sup>78</sup> Telephone interview with George O'Neal, Board of Legal Education, Tasmania (15 December 2004).

<sup>79</sup> Telephone interview with Margaret Rischbieth, Secretary, Legal Practitioners Board, Northern Territory (21 December 2004) and written comments sent 03 August 2005 from Terence Coulehan, Chairperson Northern Territory Legal Practitioners' Admission Board.

<sup>80</sup> Telephone interview with Lorraine Cornabe, Council for Legal Education, Victoria (14 December 2004); telephone interview with Mary-Anne Paton, Legal Practice Board, Western Australia (5 January 2005); telephone interview with David Milne, Secretary, Board of Examiners, South Australia (16 December 2004).

<sup>81</sup> Email from Melissa Timmins, Secretary, Legal Practitioners Admission Board, Queensland, (1 February 2005).

<sup>82</sup> Interview with Monica Bhattacharya, Team Leader, Legal Practitioners Admission Board, New South Wales (7 December 2004).

complaints<sup>83</sup>. Overseas admitted legal practitioners with considerable experience in specialised areas of practice including barristers will probably find it difficult to satisfy the Practical Legal Training Requirements in New South Wales without undertaking additional study. However, it has become possible for overseas trained lawyers to undertake tuition and examination in discrete skill and practice areas without having to enrol in an entire PLT course.

In Western Australia, the Legal Practice Board will require applicants with limited experience to undertake the Articles Training Program. All local applicants are required to complete the Articles Training Program whilst serving as an articled clerk. The program runs for five weeks and costs \$2,000<sup>84</sup>.

With the exception of Western Australia, it is uncertain to what extent the approaches adopted in each jurisdiction ensures that applicants meet the LACC national minimum competency standards prior to admission.

## **6 Conclusions and Recommendations**

Across Australian jurisdictions the admission to practice of overseas trained lawyers is inconsistently handled. Each jurisdiction pursues independent assessment processes with the result being that applicants to one jurisdiction may receive a different outcome if they re-applied in another. This situation is problematic because due to the operation of mutual recognition provisions and the newly developed National Practising Certificate Scheme, overseas applicants who are admitted to practice in one Australian jurisdiction can usually easily gain practice rights in all other Australian jurisdictions. For this reason it is considered important to develop a nationally consistent, uniform and transparent approach to handling applications for admission from overseas qualified lawyers.

### Recommendation 1

This paper be conveyed to the Commonwealth Attorney-General with the request that he bring it to the attention of his Ministerial counterparts on the Standing Committee of Attorneys-General (SCAG) with a view to seeking endorsement by SCAG of the principle that consistent, uniform and transparent assessment processes in respect of admission to practice of overseas qualified lawyers should apply across all jurisdictions in Australia.

The National Legal Profession Project undertaken by the SCAG recognises the need for consistency of treatment of foreign lawyers seeking registration as foreign legal consultants in Australia. It would seem logical to extend this work to the assessment of overseas qualified lawyers seeking admission to practice Australian domestic law.

### Recommendation 2

The Commonwealth Attorney-General and other SCAG Ministers give favourable consideration to including within the National Legal Profession

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<sup>83</sup> Telephone interview with Lorraine Cornabe, Council for Legal Education, Victoria (14 December 2004); telephone interview with Mary-Anne Paton, Legal Practice Board, Western Australia (5 January 2005); telephone interview with David Milne, Secretary, Board of Examiners, South Australia (16 December 2004); telephone interview with George O'Neal, Secretary, Board of Legal Education, Tasmania (15 December 2004).

<sup>84</sup> *Legal Practice Board Rules 2004* (WA), regulation 34; Legal Practice Board of Western Australia, *Articles Training Program, A Guide for Principals and Articled Clerks*, January 2004, at pages 6 and 12, viewed 15 February 2005, <<http://www.lpbwa.org.au/pdf/atpguide.pdf>>.

Project such necessary amendments to legislation to overcome barriers to consistent, uniform and transparent processes in respect of the assessment processes for admission to practice of overseas qualified lawyers.

If the inconsistencies identified in this paper remain unaddressed the quality of overseas qualified lawyers allowed to practise domestic law in Australia will be varied and the different processes of admission are likely to be exploited by applicants who will choose to pursue their application through the jurisdiction which offers the least burdensome requirements.

This report makes no recommendation concerning the standard of legal professional knowledge and skills required to satisfy eligibility for admission to practice in Australia. This is a matter for the Law Admissions Consultation Committee (LACC) and the admitting authorities. Furthermore, it is a matter for LACC and the admitting authorities whether assessment bodies in each jurisdiction assess applications for admission to practice of overseas lawyers in their jurisdiction or whether a single assessment body or committee to assess all applications and provide recommendations as to further study requirements for admission would have merit. **Appendix 1** contains further explanation of the single assessment body option and a Canada's experience in this regard.

Finally, it is worth noting that when negotiating legal services market access commitments as part of the World Trade Organisation multilateral trade negotiations or in pursuit of bilateral free trade agreements, Australia requests transparent and consistent regimes for the licensing of Australian-trained lawyers to practise their own law, third country law, international law and, where permitted, for admission to practise the domestic law of a foreign jurisdiction. Australia's ability to achieve these concessions for Australian-trained lawyers wishing to practise in foreign jurisdictions is undermined if our own domestic regime does not offer the same consistency and transparency that we request of our trading partners.

### Recommendation 3

Upon endorsement across jurisdictions in Australia of the principle of consistent, uniform and transparent processes in respect of assessment of overseas qualified lawyers for admission to practice, the relevant admitting bodies, professional associations and government departments examine the scope for, and likely benefit of, formalising the procedures for admission to practice of overseas qualified lawyers with one or more overseas jurisdictions of interest to Australia as part of a mutual recognition agreement (MRA) or international recognition agreement between Australia and another country or countries.

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## **Appendix 1:**

### **A single assessment body – Canada’s experience**

A possible option towards consistency and transparency of the assessment process for overseas lawyers seeking to practice the law of Australia might be to establish a single assessment body or committee to assess all applications and provide recommendations as to further study requirements for admission. Overseas applicants could then submit their qualifications to the certifying bodies in the various jurisdictions together with payment of a fee, part of which would be used to pay for the assessment fee of the single assessment body. The certifying bodies would forward the applications to the assessment body, which would make recommendations based on the agreed national guidelines outlined above. The certifying body could either adopt the single assessment body’s recommendations or make its own decision based on those recommendations.

This option would ensure that overseas applicants could seek an assessment of their academic qualifications in any Australian jurisdiction, reduce delays, ensure consistency, eliminate forum shopping, allow transparency and allow the assessment body to build up a high level of expertise while eliminating the duplication of assessment panels across states and territories. In addition, the single assessment body could manage dispute resolution connected to the assessment to ensure that all complaints are dealt with in a nationally consistent manner.

Canada has adopted this option. Foreign lawyers or Canadians with a foreign law degree who wish to become members of a Canadian Law Society must apply to the National Committee on Accreditation (NCA) for an evaluation of their legal credentials and experience. The NCA was established through the joint efforts of the Council of Canadian Law Deans and the Federation of Law Societies of Canada to evaluate credentials of persons applying from outside Canada for admission to one of the Canadian Law Societies<sup>85</sup>.

The NCA establishes certain educational and practicing criteria that must be met before an applicant will be considered to be qualified for admission. The funding of the NCA comes from fees paid by the applicants for admission. The existence of the NCA avoids the need for each Law Society to establish its own committee to deal with such applicants. It is administered through the offices of its Executive Director, Professor Vern Krishna, Q.C., at the Common Law Section of the University of Ottawa Law School. Over 900 inquiries resulting in more than 300 applications are processed each year by the NCA<sup>86</sup>.

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<sup>85</sup> Federation of Law Societies of Canada, *National Committee on Accreditation*, Canada, 2002, viewed 15 February 2005, <<http://www.flsc.ca/en/foreignLawyers/foreignLawyers.asp>>.

<sup>86</sup> Federation of Law Societies of Canada, *National Committee on Accreditation*, Canada, 2002, viewed 15 February 2005, <<http://www.flsc.ca/en/foreignLawyers/foreignLawyers.asp>>.

Table 1: Eligibility to apply to the various jurisdictions for recognition of overseas qualifications

<b>Qualifications</b>	<b>NSW</b>	<b>Vic</b>	<b>Qld</b>	<b>WA</b>	<b>SA</b>	<b>Tas</b>	<b>NT</b>	<b>ACT</b>
Commenced but not completed academic requirements	Yes	No	No	No	No	No	No	No
Law degree but other academic requirements not met	Yes	No	Yes	Yes	No	No	No	No
Attained academic requirements for admission	Yes	No	Yes	Yes	Yes	No	No	Yes
Qualified but not admitted	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Admitted but not practised	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Admitted and practised	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No

Table 2: General information on assessing bodies

	<b>NSW</b>	<b>Vic</b>	<b>Qld</b>	<b>WA</b>	<b>SA</b>	<b>Tas</b>	<b>NT</b>
Relevant body	Legal Practitioners Admission Board	Council of Legal Education	Legal Practitioners Admission Board	Legal Practice Board	Board of Examiners	Board of Legal Education	Legal Practitioners Board
Number of members on body	11	29	8	53	15	6	7
Quorum required for meeting	5	7	4	4	5	4	3
Members of academic community	Yes	Yes	No	No	No	Yes	Yes
Members of legal profession	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Judicial members	Yes	Yes	No	No	Yes	Yes	Yes
Other*	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Determination of applications	Decisions by Academic Exemptions Sub-committee with respect to academic qualifications and Practical Training Exemption Sub-committee with respect to practical training and experience qualifications.	Majority decision at Council meeting based on recommendations of committee	Assessment of academic qualifications is outsourced to any university law school in Queensland. Practical legal training and experience determined by majority decision of the Board.	Decision by the Admissions and Registration Committee	Majority decision at Board meeting. With respect to Academic qualifications, these are sent to the University of Adelaide Law School for assessment and the Board usually adopts its recommendations.	Majority decision at Board meeting based on recommendations of a Board member who is Professor of Law at University of Tasmania	Majority decision at Board meeting. Academic qualifications are sent to Charles Darwin University for assessment.**
Do rules permit assessing body to seek outside assistance or expert advice	Not stated	Yes	Not stated	Not stated	Yes	Not stated	Yes
Does the assessing body seek outside assistance or expert advice with respect to academic qualifications	Generally no	Generally no	Academic assessment outsourced to any Queensland university law school	Yes – local universities	Yes - University of Adelaide Law School	Will seek advice from the University of Tasmania in unusual applications	Yes – Charles Darwin University
Does the assessing body seek outside assistance or expert advice with respect to practical training and experience qualifications	Generally no	Generally no	No applications have been lodged under current rules	Yes if the Board or Committee is uncertain about the application	No	Will seek advice from the University of Tasmania in unusual applications	No applications have been lodged under current rules.
Does the assessing body publish information to assist applicants?	Yes – extensive information available on website	Yes	No	Yes	Yes	Yes	No

\* One or more of the following: Attorney-General or nominee, Solicitor General, Director of Public Prosecutions and a nominee of the Minister,

\*\* In most cases, Charles Darwin sends the application to an interstate university for assessment

Table 3: Assessment of knowledge requirements

	<b>NSW</b>	<b>Vic</b>	<b>Qld</b>	<b>WA</b>	<b>SA</b>	<b>Tas</b>	<b>NT</b>
How is the application assessed?	In house knowledge and expertise	In house knowledge and expertise	Outsourced to any Queensland university law school	Seeks advice from local universities	Sends application to University of Adelaide Law School for assessment	In house knowledge and expertise, may seek advice from University of Tasmania	Sends application to Charles Darwin University for assessment.
Does the board or council rely on a set of guidelines when assessing qualifications?	Yes	No, relies on experience from previous applications	No – this is left to the universities.	No, relies on experience from previous applications		No, relies on experience from previous applications	No – this is left to Charles Darwin University.
Does the board or council publish general information on subjects required for applicants from particular jurisdictions?	Yes	No	No	No	No	No	No
Can applicants obtain this information by contacting the board or council	Yes	Yes	Yes but information may be of limited assistance	Yes	Yes	Yes	Yes but information may be of limited assistance
Can persons with law degrees from the same jurisdiction expect to receive similar or identical assessments?	No. Assessments may vary depending on: whether the person has qualified academically for admission: how long, if at all, the person has practised and what type of experience the practitioner has had; and what subjects were undertaken in the person's law studies.	Yes	Different universities have given different assessments to the same degree	Yes unless different subjects were studied	Yes unless different subjects were studied or change of syllabus.	Yes but a different decision can occur if the syllabus changes.	No application has been made under current rules.
Can an applicant expect a total exemption from further academic study?	Practitioners with over 5 years experience from England, Wales, Hong Kong and Singapore may be granted an exemption. Others may be required to study: Constitutional Law Real Property Law	No. Can expect to study one or more of the following: Constitutional Law Administrative Law Real Property Law Civil Procedure		No. Can expect to study one or more of the following: Constitutional Law Real Property Law	No. Can expect to study one or more of the following: Constitutional Law Administrative Law Real Property (Torrens Title) Law	No. Can expect to study one or more of the following: Constitutional Law Real Property Law Certain elective subjects	No application has been made under current rules.
Are some applicants required to study all Priestley Eleven subjects?	Applicants from non common law jurisdictions	Applicants from civil law jurisdictions		Applicants from sharia law jurisdictions and jurisdictions such as Poland and Russia might be required to complete an entire law degree	Applicants from civil law jurisdictions.	Applicants from non common law countries e.g. Russia and China can expect to complete an entire law degree.	No application has been made under current rules.
Where can applicant undertake further study to comply with directions of Board or Council?	Board exams or any Australian university but the latter will require a second assessment.	Any Victorian university. Applicants should check with the Council if they wish to study interstate.	Any Australian university	Any Western Australian university. Applicants should check with the Board if they wish to study interstate.	Any Australian university	Any Australian university	Any Australian university

Table 4: Assessment of practical training and experience requirement

	<b>NSW</b>	<b>Vic</b>	<b>Qld</b>	<b>WA</b>	<b>SA</b>	<b>Tas</b>	<b>NT</b>
How is the application assessed?	Majority decision of Practical Training Exemption Sub-Committee with reference to national competency standards..	Council relies on in house knowledge gained from experience of previous applications.	No application has been assessed under the current rules.	Board relies on in house knowledge gained from experience of previous applications.	Board keeps a catalogue of previous determinations and refers to it in assessing current applications	Assessed by a Board member who is a professor at University of Tasmania.	No application has been lodged under current rules.
Does the board or council rely on a set of guidelines when assessing qualifications?	No; sub-committee relies on the knowledge and experience of its members.	No guidelines, see above.	No.	See above.	See above.	No.	No application has been lodged under current rules.
Does the board or council publish general information on subjects required for applicants from particular jurisdictions?	Not yet. Guidelines are in preparation.	No.	No.	No.	No.	No.	No
Can applicants obtain this information by contacting the board or council	Limited information soon to be augmented by guidelines, is provided on the Board's website.	Yes.	General information only.	General information only.	Limited general information.	Yes.	Yes but information may be of limited assistance
Can two practitioners from the same jurisdiction with similar number of years experience expect a similar assessment?	No. Assessment will turn on the type of practice the applicant has had.	No. Assessment will turn on the type of practice the applicant has had.	No application has been assessed under the current rules.	Not necessarily. The Board also examines the nature of the applicant's experience.	Yes but the Board only looks at length or breadth of experience.	Yes.	No application has been made under current rules.
Can an applicant be exempted from completing practical legal training and experience requirements?	Yes. But all applicants are required to complete a short course on Trust Accounting and Professional Conduct.	No.	No application has been assessed under the current rules.	Possible but unlikely.	Yes, but unlikely.	Yes. Most applicants who have practised law overseas will receive an exemption.	No application has been made under current rules.
If required, how do applicants complete the practical legal training and experience requirements?	Skill and practice are training conducted by either a University or other PLT provider and accepted by an Australian admitting authority as sufficient	Admitted lawyers will be required to complete 6 to 12 months as a law clerk and qualified but not admitted lawyers will be required to do a 6 month Practical Legal Training course.	A Practical Legal Training course or articles (currently two years).	Applicants will be required to work 6 -12 months as an articulated clerk and may be required to undertake the Articles Training Program. Applicants with extensive overseas experience may only be required to work 6 months as an articulated clerk.	Admitted applicants are required to work as a law clerk for 3-12 months. Qualified but not admitted applicants are required to do the SA Graduate Diploma in Legal Practice or some other PLT course.	A Practical Legal Training course in Hobart but this has rarely been required.	The Graduate Diploma in Legal Practice at Charles Darwin University.

## Academic Requirements

Jurisdiction	Local applicants	Overseas applicants
NSW	3 year full time tertiary academic study of law covering Priestley Eleven subjects (Schedule 2 Law Degree or Diploma of Law).	<p>Lodge a Form 16 Application to the Academic Exemption Sub-committee for an assessment of academic qualifications and directions on what further subjects the applicant will be required to study.</p> <p>The admitted practitioner applicant is required to satisfy the Committee that they have attained the equivalent of the Priestley Eleven academic requirements. The Committee will require the applicant to study such Priestley Eleven subjects which were not covered by the applicant's overseas academic qualifications.</p> <p>The Committee also takes account of the Priestley requirement for 'the equivalent of three years full-time study of law' and, as a consequence, regards English Legal Practice Course as including part of the academic preparation for admission.</p> <p>The admitted practitioner applicants from common law countries can expect an exemption from most subjects but may be required to study Constitutional law, real property law (covering Torrens title system) Equity and administrative law. The admitted practitioner applicants from civil law jurisdictions can expect to study all Priestley Eleven subjects. In addition, senior practitioners with considerable experience from certain jurisdictions including England and Wales, Hong Kong and Singapore may gain total academic exemptions.</p> <p>NB: As part of the practical training requirements (i.e. separate from academic requirements) all applicants will be required to undertake short courses on Trust Accounting and Professional Responsibility.</p>
Vic	3 year full time tertiary academic study of law covering Priestley Eleven subjects.	<p>Apply to the Council for directions for assessment of existing qualifications and directions on what further subjects the applicant will be required to study.</p> <p>Apart from those with an Australian law degree covering the Priestley Eleven subjects, very few applicants, if any, are ever given a total exemption from further academic study. The most common subjects required are constitutional law, administrative law and real property law (for applicants from non Torrens title jurisdictions).</p> <p>Practitioners from civil law jurisdictions are usually required to study all Priestley Eleven subjects.</p>
Qld	3 year full time tertiary academic study of law covering Priestley Eleven subjects.	<p>The Board must approve the academic qualifications attained in a foreign country and the Board may take into account the extent to which the qualifications comply with the Priestley Eleven and may require that the applicant supplements his or her foreign qualifications with other academic qualifications.</p> <p>In reality, the Board has no academic expertise nor does it have the resources to assess overseas academic qualifications. Instead, the Board will direct applicants to have their overseas qualifications assessed by a Queensland university law school and the Board accepts the law school's findings and recommendations.</p> <p>Once the university assesses the qualifications, it will be up to the applicant to interpret the assessment and undertake any course of study recommended in the assessment.</p> <p>The Board appears to have little control over the assessment process and different universities have given inconsistent assessments.</p>

WA	Law degrees from University of Western Australia, Notre Dame University and Murdoch University. In effect, a three year full time academic study of law covering the Priestley Eleven subjects.	Applicants must apply to the Board for an opinion on their qualifications and a determination of further requirements to be met by the applicant to qualify for admission. The Board seeks to ensure that the applicant meets the Priestley Eleven knowledge requirements before being admitted to practice.
		The academic qualifications are assessed by the Admission and Registration Committee of the Board. A member of staff of the Board secretariat prepares a report as part of the agenda of the Committee's meetings containing a summary of the qualifications and a recommendation. The report is considered by the Committee which then makes its decision.
		Whilst it is possible the applicant will not be required to undertake further study, the majority of applicants will be required to undertake further study in Constitutional law or Real Property law. Applicants from countries with legal systems which diverge significantly from the Western Australian legal system are likely to study more or all Priestley Eleven subjects. Such countries include Poland, Russia and Sharia law countries while African countries can produce mixed results.
SA	3 year full time tertiary academic study of law covering Priestley Eleven subjects. In South Australia the academic qualifications may be satisfied by completing a Bachelor of Laws degree from either Adelaide University or Flinders University or the Bachelor of Laws and Legal Practice from Flinders University.	Applicants must apply to the Board of Examiners for accreditation of academic and directions on what further academic requirements must be complied with. The Board seeks to ensure that the Applicant satisfies the Priestley Eleven academic requirements prior to admission.
		The Board refers applications to the University of Adelaide Law School which submits a report to the Board. The Board usually follows the report's recommendations but have sometimes reached different conclusions after taking into account details of the applicant's practice.
		Applicants are never given a total exemption from further academic study. All applicants will be required to study Constitutional law. Most qualified practitioners from the United Kingdom are usually required to study Torrens title system, Constitutional Law and Administrative Law. Applicants from civil law jurisdictions will be required to study all Priestley Eleven subjects. Occasionally, applicants have been required to complete an entire law degree.
Tas	Applicants are required to obtain a Degree in Bachelor of Laws at the University of Tasmania or such other approved university or institution. The knowledge requirements in the Rules are essentially the Priestley Eleven subjects.	Applicants must apply to the Board for accreditation of their academic qualifications and directions on what further academic requirements should be complied with. The Board aims to ensure that the applicant satisfies the Priestley Eleven academic requirements.
		The academic qualifications are assessed by a board member who is a Professor at the University of Tasmania and a lecturer at law.
		Applicants are usually required to study Constitutional law and Real Property law. Russian lawyers would be required to do all subjects while South African Lawyers would be required to do more subjects because of the Roman Dutch legal system. The greater the dissimilarity between the overseas law degree and the Australian law degree, the greater the number of subjects required.
ACT	Applicants are required to obtain a law degree covering the Priestley Eleven subjects from the Australian National University or the University of Canberra or an equivalent three year full time degree.	Not applicable.
NT	3 year full time tertiary academic study of law covering Priestley Eleven subjects.	Applicants must apply to the Board for directions on the recognition of academic qualifications and what further academic study is required for admission. The Board is basically looking to ensure the applicant has the equivalent academic qualifications (Priestley Eleven) and practical training as a local applicant.

Applicants are asked to submit extensive details of their academic qualifications and the Board then requests an assessment from Charles Darwin University. The application is usually sent to an interstate university as the Charles Darwin University is not sufficiently resourced to undertake its own assessment. The Board bases its assessment of the applicant's academic qualifications based on the university assessment.

This is a lengthy process. The Board gets many inquiries regarding recognition of overseas qualifications but very few apply due to the time involved.

The current rules were only introduced recently and given the low volume of applications, it is not possible to draw any meaningful conclusions on the results of those applications. However, it would appear unlikely that an applicant will obtain a complete exemption from further academic study as this has only been granted once under the previous rules. Another applicant was required to study all Priestley Eleven subjects.