



ACN 009 717 739

**ADMINISTRATION RULES OF THE BAR ASSOCIATION OF QUEENSLAND  
MADE PURSUANT TO SECTION 231 OF THE  
LEGAL PROFESSION ACT 2007**

Current as at 14 September 2020

Terms used have the same meaning as those defined in the *Legal Profession Act 2007* and the *Constitution of the Bar Association of Queensland*.

**PART 1: PRACTISING CERTIFICATES**

**Applications**

- 1.1 An application for the grant of a practising certificate made by an Australian lawyer shall be made on such form and containing such information as the Bar Council may from time to time prescribe (Schedule 1).
- 1.1A In order to be eligible to be granted a practising certificate, an applicant must:
- 1.1A.1 undertake and pass the Bar Exams; and
  - 1.1A.2 within two years of passing the Bar Exams, undertake and pass the Bar Practice Course.
- 1.1B If an applicant applies for a practising certificate more than two years, but less than five years, after the most recent of:
- 1.1B.1 the expiry of the applicant's last barrister's practising certificate; or
  - 1.1B.2 the applicant having passed the Bar Practice Course;
- in order to be eligible to be granted a practising certificate, the applicant must undertake and pass the Bar Exams.
- 1.1C If an applicant applies for a practising certificate more than five years after the most recent of:

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1.1C.1 the expiry of the applicant's last barrister's practising certificate; or

1.1C.2 the applicant having passed the Bar Practice Course;

in order to be eligible to be granted a practising certificate, the applicant must:

1.1C.3 undertake and pass the Bar Exams; and

1.1C.4 within two years of passing the Bar Exams, undertake and pass the Bar Practice Course.

1.1D The Bar Council may, at its discretion, specify the standard which must be met in order to pass the Bar Exams or Bar Practice Course, being the standard set out in the "Information for Applicants" published from time to time on the Association's website.

1.1E An application for the renewal of a practising certificate:

1.1E.1 may only be made by a person who holds a current practising certificate; and

1.1E.2 must be made to the Association prior to the expiry of that practising certificate.

1.1F Nothing in these Rules fetters the Association's discretion to grant or renew a practising certificate. For the avoidance of doubt, the Association may refuse to grant or renew a practising certificate, notwithstanding compliance with these Rules.

1.2 Upon approval of an application for a practising certificate and upon payment of the prescribed fee the applicant shall be enrolled as a holder of a practising certificate and shall be issued with a certificate for the period in respect of which such fee has been paid (Schedule 2).

1.3 An application for a practising certificate must be accompanied by a fee of such amount as is determined by the Bar Council (Schedule 3).

1.4 The Bar Council may determine different practising certificate fees according to such different factors as it may from time to time determine.

1.5 If an application for a practising certificate is accepted by Bar Council after the end of the prescribed period during which the application is to be made, payment of a prescribed late fee may, if the Bar Council thinks fit, be required as a condition of acceptance of the application.

1.6 For the purposes of Rule 1.5 of these Rules, the "end of the prescribed period" shall

be the first Friday in June.

- 1.7 For the purposes of Rule 1.5 of these Rules, the prescribed late fee is an amount determined by the Bar Council not exceeding 20 per cent of the fee payable in relation to the application.

### **Conditions**

- 1.8 The Bar Council may attach one or more of the following conditions to the practising certificate of the barrister:
- 1.8.1 a condition requiring the holder to undertake and complete to the satisfaction of the Bar Council a full-time component or other component of the Bar Practice Course applicable to the holder and determined or approved by the Bar Council;
  - 1.8.2 a condition requiring the holder to sit for and pass any Bar Exams;
  - 1.8.3 a condition requiring the holder to undertake readership in accordance with Part 3 of these Rules;
  - 1.8.4 a condition limiting the holder from engaging in legal practice other than as a government legal officer engaged in government legal work;
  - 1.8.5 a condition limiting the holder from engaging in legal practice other than as an employee of a corporation engaged in providing in-house legal services;
  - 1.8.6 a condition requiring the holder to undertake and complete one or more courses of Continuing Professional Development;
  - 1.8.7 a condition requiring the holder to undertake additional academic or training courses;
  - 1.8.8 a condition requiring the holder to maintain during the currency of the practising certificate professional indemnity insurance that complies with the Act;
  - 1.8.9 a condition restricting the holder to particular conditions concerning employment or supervision;
  - 1.8.11 a condition limiting the holder to supervised legal practice in the way stated in the condition;
  - 1.8.12 any other condition agreed to by the holder;

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1.8.13 any other reasonable and relevant condition that the Bar Council may from time to time determine.

1.9 A condition of a kind referred to in Rule 1.8 which is attached to the practising certificate of a barrister may limit the practising rights of the barrister until the condition is complied with.

### **Exemptions**

1.10 The Bar Council may exempt an applicant from full or part compliance with any Rule in this Part, upon such conditions as it shall think fit. In doing so the Bar Council shall have regard to all relevant circumstances, including:

1.10.1 the applicant's previous experience as counsel or as a judicial officer, if any;

1.10.2 the applicant's education, qualifications and legal experience;

1.10.3 any policy which the Association may publish concerning exemptions; and

1.10.4 any other relevant matter.

1.11 Applications for exemption from any Rules in Part 1 shall be in writing, detailing the grounds for exemption supported by a curriculum vitae and in the case of an applicant who was not, prior to the application, a judicial officer, two professional references.

### **Seniority**

1.12 The seniority of a legal practitioner who obtains the grant (as opposed to renewal) of a local practising certificate is to be determined in accordance with the Association's Seniority Protocol or otherwise at the discretion of the Bar Council.

## **PART 2: PROFESSIONAL INDEMNITY**

2.1 No barrister shall engage in practice unless insured against claims for professional negligence in accordance with the Act.

2.2 Such insurance cover must be:

2.2.1 for such sum as may from time to time be prescribed by the Bar Council; and

2.2.2 written so as to incorporate the minimum terms of cover approved from time to time by the Bar Council.

2.3 A practising barrister who becomes uninsured or has any limitation imposed upon the

extent of an insurance cover, must notify the Bar Council immediately.

### **PART 3: COMPULSORY READERSHIP**

- 3.1 Every barrister who commences private practice, and who has not previously completed readership in Queensland, shall arrange to serve a period of not less than twelve months readership as the reader of the mentors nominated under these Rules.
- 3.1.1 The period of readership commences on the date a practising certificate is issued to the reader barrister and ends when written notice is received from the Chief Executive.
- 3.1.2 No barrister shall commence actual practice before:
- (a) arranging two mentors as required by these Rules;
  - (b) completing and signing the Register of readers; and
  - (c) being issued with a practising certificate.
- 3.1.3 A reader is free to undertake any private work except as provided for in Rule 3.1.4.
- 3.1.4 In the first twelve months of readership a reader is prohibited from accepting a “direct access” brief unless they obtain the written approval of the reader’s senior or junior mentor and submit that written approval to the Chief Executive prior to acceptance of the brief.

#### **The Register of Readers**

- 3.2 The Bar Council shall cause to be kept a Register (which may be in electronic form) of readers and the mentors nominated by them. The Register shall be completed and signed by the reader before commencing private practice.
- 3.3 The completion and currency of the Register shall be the responsibility of a reader.

#### **Mentors**

- 3.4 A reader shall have two mentors: a senior mentor, being Senior Counsel, and a junior mentor, being a junior barrister of not less than five years standing in actual practice.
- 3.5 A senior mentor may not have more than three readers at any one time.
- 3.6 Unless the Chief Executive grants approval in writing, a junior mentor may not have

more than one reader at any one time.

- 3.7 If a reader is unable to nominate any necessary mentor, then the Chief Executive must be informed by the reader, so that the Chief Executive might make a nomination on behalf of that reader.
- 3.8 Upon the request of a mentor or reader and with the written consent of the Chief Executive, a reader may change a mentor or mentors, and any such change shall be recorded in the Register and shall not affect the period of readership already completed by the Reader.
- 3.9 In the event that a mentor shall not be accessible to a reader for more than one month during the year of readership, then that mentor shall arrange for the reader to have access to another mentor of appropriate experience. The reader shall, as soon as possible, inform the Chief Executive in writing of the arrangement made.
- 3.10 Insofar as it is practicable, mentors are encouraged to have their readers devil for them.

## **Duties of Readers and Mentors**

### ***During readership***

- 3.11 In this section “Court orientated work” means conferences or other preparation for a hearing and actual court or tribunal attendances.
- 3.12 A reader must meet with each of their mentors within two weeks of the reader commencing readership so as to plan and commit to the readership year (“the initial meeting”).
- 3.13 At the initial meeting, the reader and mentors must plan for the reader to meet with either the senior or junior mentor at least once a month to discuss the reader’s progress at the Bar (“the monthly review”).
- 3.14 Within two weeks of the initial meeting, the reader must give written notice to the Chief Executive (copied to both mentors) that the initial meeting has occurred.
- 3.15 If the initial meeting does not occur within four weeks of the reader commencing readership, the reader must write to the Chief Executive (copied to both mentors) giving reasons and stating when the initial meeting is to take place.
- 3.16 At each monthly review, the reader must inform the senior or junior mentor:
- 3.16.1 of the work undertaken by the reader with either mentor in the preceding month so as to reveal the reader’s understanding of that work;

- 3.16.2 subject to any conflict arising between any private work undertaken by the reader and either mentor concerned, of the substance of private work undertaken by the reader and any difficulties encountered.
- 3.17 In the first six months of readership:
- 3.17.1 a reader must undertake a minimum of forty hours of court orientated work (at least twenty hours of which must comprise actual court or tribunal attendances) with either mentor or another barrister with greater than five years experience at the Bar;
- 3.17.2 at least 20 hours of the court orientated work must be undertaken in the first three months of readership.
- 3.18 In the second six months of readership, the reader must undertake a minimum of twenty hours court orientated work (at least ten hours of which must comprise actual court or tribunal attendances) with either mentor or another barrister with greater than five years experience at the Bar.
- 3.19 At any time during readership, the senior mentor (in consultation with the junior mentor), may by notice in writing to the reader and the Chief Executive, increase (by a factor of up to 50%) the remaining hours of court orientated work the reader still has to complete. The senior mentor's decision to so act must be based on their belief that the reader requires more intensive training. The reader may request the decision to be reviewed by the Bar Council.
- 3.20 The senior or junior mentor must report to the Chief Executive in writing (with a copy to the reader) any persistent or inexcusable non-compliance by the reader with these Rules. The Chief Executive must refer such report to the Bar Council.
- 3.21 All readers must perform such practical exercises, attend lectures or seminars and participate in such exercises or activities as the Chief Executive shall from time to time direct.
- 3.22 Mentors must make themselves available (as much as is practicably possible) to enable their reader to obtain assistance from them as required.
- 3.23 All readers must undertake any CPD activities directed by the Chief Executive from time to time (whether those CPD activities are part of or in addition to the annual requirements specified in the Continuing Professional Development Rules).
- 3.24 A reader will not receive any fee in respect of anything done with respect to the matters set out in 3.12–3.23.
- 3.25 Each reader shall:

- 3.25.1 keep a record of the hours engaged in court orientated work, attendances at the initial meeting and each monthly review in the form set out in Schedule 6;
- 3.25.2 forward their record of readership to the Chief Executive upon conclusion of the nominal 12 month period of readership (or any extended period).

***Attendance at Court***

- 3.26 A reader shall be entitled to attend with a mentor when the mentor appears in court.
- 3.27 The reader shall be entitled to sit at the Bar table with the mentor.
- 3.28 On any such occasion the reader shall be robed but will not have an appearance announced, nor take part in the case, nor charge any fee.
- 3.29 The mentor shall announce to the Court as a matter of courtesy the presence of the reader at the Bar table.

***Completion of Readership***

- 3.30 The satisfactory completion of readership shall be a personal obligation upon a barrister.
- 3.31 Failure of a reader without reasonable cause to perform the duties of readership including such additional requirements as the Bar Council may from time to time direct in lieu of requirements not performed in the currency of readership to the satisfaction of the Council shall constitute misconduct in a professional respect.
- 3.32 Upon conclusion of the nominal twelve month period of readership, the reader must give written notice to the Chief Executive (copied to both mentors) that they, to the best of their belief, have complied with the requirements of readership as set out in these Rules.
- 3.33 Each mentor, upon receipt of the reader's written notice mentioned in Rule 3.32, must forthwith certify in writing to the Chief Executive (copied to the reader) whether or not the reader, to his or her satisfaction, has undertaken readership as required by these Rules.
- 3.34 The Chief Executive shall inform the Bar Council if there is any reason why the Bar Council might consider acting under rule 3.35 as soon as practicable after receiving the notices in 3.32 and 3.33. If the Bar Council decides not to extend the readership or there is no reason to refer the matter to the Bar Council, the Chief Executive will inform the reader and the mentors in writing that the readership has been completed.



- 3.35 The Bar Council may, on terms it sees fit, extend the twelve month period of readership if:
- 3.35.1 a senior mentor has given notice pursuant to clause 3.19
  - 3.35.2 there is an unfavourable certification by either mentor; or
  - 3.35.3 the Bar Council in its discretion thinks that the period of readership should be extended for any reason.

### **Administration and Exemptions**

- 3.36 The Bar Council (or a nominated sub-committee), shall have responsibility for the implementation and supervision of these Rules.
- 3.37 The Bar Council may exempt a barrister from full or part compliance with any Rule in this Part, upon such conditions as it shall think fit. It shall have regard to all relevant circumstances, including:
- 3.37.1 the barrister's previous experience in performing barrister's work;
  - 3.37.2 the barrister's education, qualifications and legal experience;
  - 3.37.3 the nature of the barrister's work; and
  - 3.37.4 the applicant's previous experience as a judicial officer.

## **PART 4: COMPULSORY CONTINUING PROFESSIONAL DEVELOPMENT**

- 4.1 Part 4 of these Rules shall be known as the Continuing Professional Development Rules and shall come into operation on 20 July 2015.

### **CPD activity for barristers**

- 4.3 CPD activities must be:
- 4.3.1 of significant intellectual or practical content and must deal primarily with matters related to the practice of law;
  - 4.3.2 conducted by persons who are qualified by practical or academic experience in the subject covered; and
  - 4.3.3 relevant to a barrister's immediate or long term needs in relation to the

barrister's professional development as a barrister and practice of law.

- 4.4 A barrister is responsible for ensuring that a particular CPD activity meets the CPD criteria, set out in Rule 4.3, before claiming CPD points for that CPD activity.
- 4.5 The Bar Council has the power to make policies pertaining to these Rules. Without limiting the matters on which the Bar Council may make policies, the Bar Council may determine:
- 4.5.1 caps on the CPD points that may be gained in relation to types of CPD activities;
  - 4.5.2 the content and format of CPD activities;
  - 4.5.3 the content and format of audit processes; and
  - 4.5.4 the content and format of rectification plans for non-compliance.

### **CPD point**

- 4.6 One CPD point is earned for each completed hour of engagement in a CPD activity.

### **Annual requirements**

- 4.7 Unless exempted in whole or in part by the Bar Council under Rules 4.18 to 4.21, or unless a pro rata calculation applies under Rule 4.8, a barrister must in each CPD year engage in CPD activities sufficient to earn at least 10 CPD points.
- 4.8 A barrister who commences or recommences practice after the start of the CPD year may have the barrister's CPD requirement proportionally reduced in accordance with the following table:

Practising certificate issued in:	
(a) January	1 point required
(b) February	0 points required
(c) March	0 points required
(d) April	10 points required
(e) May	9 points required
(f) June	8 points required
(g) July	7 points required
(h) August	6 points required
(i) September	5 points required
(j) October	4 points required
(k) November	3 points required
(l) December	2 points required

- 4.9 A barrister who has not accrued the minimum CPD points required in a CPD year may, with the prior written approval of the Chief Executive, accrue points in the period 1 April to 30 June following that CPD year. Any such points cannot be taken into account for any other CPD year.
- 4.10 CPD points accrued in the period commencing on 1 January and ending on 31 March in any CPD year may be carried forward into the following CPD year but can only be counted in one CPD year.

### **Categories of CPD**

- 4.11 A barrister must, unless otherwise exempted, in each CPD year engage in CPD activities in each of the categories set out below:
- 4.11.1 Ethics and Professional Responsibility;
  - 4.11.2 Practice Management and Business Skills;
  - 4.11.3 Substantive Law, Practice and Procedure, and Evidence; and
  - 4.11.4 Barristers' Skills.
- 4.12 These categories are subject to any policy made from time to time by the Bar Council pursuant to Rule 4.5.
- 4.13 If the Bar Council has assigned a particular CPD activity to one or more of these categories, a barrister who participates in that CPD activity may not assign CPD points in respect of that activity to any other category. In any other case, a barrister may assign CPD points to any category that the barrister reasonably considers to be appropriate.

### **Additional CPD for new barristers**

- 4.14 The Bar Council may require that a barrister within the first three years of practice undertake additional CPD activities as determined, from time to time, by the Bar Council. This may include CPD activities specifically directed to new barristers.

### **CPD record**

- 4.15 A barrister must in each CPD year maintain a record of the barrister's engagement in CPD activities in the form set out in Schedule 5 ("the CPD record").
- 4.16 A barrister must electronically submit the CPD record within 14 days of the conclusion of each CPD year.
- 4.17 A barrister must retain the CPD record, and any supporting documentation, for each CPD year for a minimum of three years.

## **Exemptions**

- 4.18 On application by a barrister, the Bar Council may exempt the barrister in whole or in part from any requirement to undertake CPD activities imposed by these Rules.
- 4.19 An application for exemption:
- 4.19.1 must be submitted in writing to the Bar Council;
  - 4.19.2 if made in respect of the current CPD year, must be made as early as practicable in that year and, in any event, not less than one month before the end of that year; and
  - 4.19.3 if made in respect of a previous CPD year, must be made within 21 days after the barrister becomes aware of his or her non-compliance with the relevant requirement to undertake CPD activities.
- 4.20 The Bar Council may consider an application made outside the time periods referred to in Rule 4.19, if the Bar Council considers that there are special circumstances.
- 4.21 Without limiting the grounds on which the Bar Council may grant an exemption, an exemption may be granted on the following grounds:
- 4.21.1 illness or disability;
  - 4.21.2 the absence of the barrister from practice for example due to parenting leave;
  - 4.21.3 hardship or other special circumstances.

## **Certification**

- 4.22 A barrister must, when applying for renewal of the barrister's practising certificate, certify whether the barrister has complied with these Rules in respect of the CPD year just ended.

## **Audit and verification**

- 4.23 The Bar Council may conduct an annual audit to monitor compliance.
- 4.24 The Bar Council may by written notice require a barrister to verify within 21 days whether the barrister has complied with these Rules, by:
- 4.24.1 producing:

- (a) any records required to be kept under Rules 4.15 and 4.17;
- (b) any other records in the barrister's possession or control that are relevant to the barrister's compliance with these Rules;

4.24.2 giving:

- (a) a statement of the barrister's reasons for claiming that any activities undertaken by the barrister satisfy any requirements for CPD activity under these Rules;
- (b) particulars of any exemption granted under these Rules.

4.25 A notice under rule 4.24 may be given to a barrister only in relation to any or all of the current CPD year and any of the three previous CPD years.

### **Rectification**

4.26 The Bar Council may give a written notice to a barrister where:

4.26.1 he or she has certified that they did not comply with these Rules; or

4.26.2 the Bar Council is otherwise not satisfied the barrister has complied with these Rules; or

4.26.3 he or she failed to comply with the certification or the verification requirements, requiring the barrister to submit a plan to the Bar Council within 21 days setting out the steps the barrister intends to take to rectify the non-compliance ("a rectification plan").

### **Transitional provisions**

4.27 If a barrister completes any activity in the period 1 April 2015 to the commencement date of these Rules, and that activity complies with these Rules, that activity can be counted towards the barrister's 2015/2016 CPD points requirement.

## **PART 5: DEFINITIONS**

5.1 For the purposes of these Rules:

"Australian lawyer" has the meaning given to that term in the *Legal Profession Act 2007 (Qld)*

"Bar Exams" means any examinations set by the Association.

“Bar Practice Course”	means the course offered by the Association that is to be completed following the successful completion of the Bar Exams.
“barrister”	means a local legal practitioner who holds a current local practising certificate to practise as or in the manner of a barrister;
“Chief Executive”	means the Chief Executive of the Association;
“CPD”	means Continuing Professional Development;
“CPD activity”	means a continuing professional development activity within the meaning of Rules 4.3 to 4.5 and includes any CPD activity offered by the Association;
“CPD point”	means a point allocated to a CPD activity pursuant to these Rules;
“CPD record”	has the meaning given in Rule 4.15;
“CPD year”	means the year commencing on 1 April and ending on 31 March the following year;
“judicial officer”	means a judge of any superior court of record, magistrates Court or tribunal.
“practising certificate”	means a local practising certificate; and
“rectification plan”	has the meaning given in Rule 4.26.