

## NOTES

All references in these notes refer to the *Legal Profession Uniform Law Application Act 2014* (the Act), the *Legal Profession Uniform Law (Victoria)* - being Schedule 1 to the Act - (the Uniform Law), or the *Legal Profession General Rules 2015* (the Rules), unless otherwise specified.

Section 74 of the Act requires applications for the renewal of a practising certificate to be made on or before 30 April. Applications lodged after this date will attract a surcharge calculated in accordance with s.75 of the Act.

### Note A – Practising certificate commencement date

An Australian practising certificate granted in this jurisdiction is in force from the date specified in it until the end of the financial year in which it is issued (Rule 17(1)).

An Australian practising certificate granted in this jurisdiction:

- (a) cannot commence prior to the date that the application is received;
- (b) cannot commence prior to the date of admission to practice; and
- (c) if a commencement date is not recorded at question 1, the date of commencement will be taken as the date on which a complete application was received.

A practitioner may not commence legal practice until a practising certificate is granted.

Please note: When applying for a practising certificate, you are not permitted to hold a concurrent practising certificate from another jurisdiction (s.45(1)(c) of the Uniform Law).

### Note B – Practice details

#### (a) Primary place of practice

For the purposes of reporting you will be assigned to this law practice on the Board's records.

#### (b) Change in place of practice

An Australian legal practitioner or law practice should notify the Board of any changes to information recorded on the Board's Register within 14 days after it occurs. If you need to change your details, please do so through the Board's online registration system, LSB Online, which can be accessed via the Board's website at [www.lsb.vic.gov.au](http://www.lsb.vic.gov.au).

#### Eligibility to apply for a Principal practising certificate

From 1 January 2019, those applying for (or varying to) a principal practising certificate in Victoria (other than those *renewing* principal practising certificates) will need to demonstrate to the Board that they have the necessary skills and expertise to hold such a certificate. For further information, please see the Board's *Grant of a Principal Practising Certificate policy*.

These skills can be demonstrated by either (i) successfully completing a practice management course (PMC) that meets the Board's guidelines, or (ii) otherwise demonstrating that you have the necessary skills and expertise.

If you have not completed a PMC that meets the Board's guidelines, but believe you can demonstrate that you possess the skills and expertise necessary to manage a law practice competently, diligently and successfully, please **attach** supporting documents for consideration. Such documents may include:

- If you have recently completed a PMC in another Australian or overseas common law jurisdiction, a copy of your certificate of completion;
- A statutory declaration, demonstrating a reasonable length and level of experience as a principal legal practitioner of a law practice in another Australian or common law jurisdiction, with comparable responsibilities and obligations to those contained within the Uniform Law;

- A certificate of fitness/good standing from the legal regulator within any jurisdiction in which you have practised as a principal legal practitioner;
- Letters from:
  - professional indemnity insurance providers, outlining whether any claims were made against you as a principal legal practitioner;
  - auditors/external examiners of trust accounts for which you were responsible as a principal legal practitioner;
  - other legal partners/directors of law practice(s), confirming your experience as a principal legal practitioner.

### Note C – Other places of practice

Australian legal practitioners engaging in legal practice with more than one law practice or entity are required to complete this question. Please attach a separate sheet if you have more than one additional place of practice.

### Note D – Admission details

If you have been admitted in one or more Australian jurisdictions other than Victoria, you must provide evidence of your admission and fitness to engage in legal practice in each of these jurisdictions. If you have been admitted, but have never held a practising certificate in another jurisdiction, you must provide a certified copy of your interstate admission certificate.

If you have been admitted in another jurisdiction and at any time held a practising certificate in that jurisdiction, you must provide a current Certificate of Fitness and Good Standing from the appropriate regulatory authority.

### Note E – Address for service

The Board's Register includes an address for service for each local legal practitioner and law practice. The address for service must be a physical street address.

Section 150(4) of the Act requires the Board to make the Register available for public inspection at the Board's offices. Your address for service will appear on this version of the Register.

Under s.150(5), the Board may also provide the information recorded on the Register to members of the public in any other manner approved by the Board, including on the Board's website. The Board has approved the provision of Register information online, over the telephone and in writing, including email. With the exception of date of birth, all information on the Register will be available by any of these means.

### Note F – Eligibility to apply for a practising certificate

Under ss.43-45 of the Uniform Law, you may apply for an Australian practising certificate if:

- you reasonably intend that Victoria will be your principal place of practice; and
- you are an Australian lawyer; and
- you have, or will have, professional indemnity insurance (if required by the Uniform Law); and
- you have indicated that you do not or will not hold another Australian practising certificate that would be in force concurrently with this certificate. (For example, your practising certificate cannot be renewed in Victoria if you indicate you will hold a Queensland practising certificate for the 2019/2020 practising year).

### Note G – Authorisation to receive trust money

This question does not apply to barristers. To be authorised to receive trust money, the applicant must provide evidence of completion of an approved trust account course of study. The Board has approved the Law Institute of Victoria Trust Account course for this purpose. Employees seeking trust authorisation are requested to provide a letter of confirmation from the principal of the law practice.

**Note H – Supervised legal practice***Requirement*

Section 49 of the Uniform Law imposes a condition on each Australian legal practitioner's first practising certificate requiring the holder to engage in supervised legal practice for a specified period. Supervised legal practice is defined in s.6 of the Uniform Law. Rule 7 of the Rules broadens the capacities in which supervised legal practice can be undertaken. Rule 14 of the Rules sets out how the required period can be completed.

The Board's guidelines and policy statement on supervised legal practice are available on the Board's website at

**www.lsbic.vic.gov.au**. Depending on the training undertaken to qualify for admission, the requisite period is:

- 18 months after the day the holder's first Victorian practising certificate was granted if practical legal training was completed under the supervision of an Australian Legal Practitioner (e.g. supervised workplace training); or
- 2 years after the day the holder's first Victorian practising certificate was granted if other practical legal training was completed (e.g. a Graduate Diploma in Legal Practice).

*Exceptions*

The supervised legal practice condition does not apply to barristers.

*Removal of the supervision condition*

If you have completed the requisite period of supervision, you may attach your application for removal of the condition from your practising certificate, including supporting documentation, to this form.

A government lawyer who did not hold a practising certificate before the commencement of the Uniform Law can apply to have their time as a government lawyer subtracted from the required period of supervision.

Please note that the application must be submitted to the Victorian Legal Services Board in the form of a statutory declaration, a *pro forma* of which is available on the Board's website.

*Exemption from the supervision condition*

If you have previously engaged in legal practice in an interstate or overseas jurisdiction, you may be able to apply for an exemption from the supervised legal practice requirement. Please note that exemption applications must be submitted to the Board in the form of a statutory declaration, a *pro forma* of which is available on the Board's website.

**Note I - Fit and proper person**

The Board must not grant or renew a practising certificate unless it is satisfied that the applicant is a fit and proper person to hold a practising certificate (s.45(2) of the Uniform Law). In considering whether a person is fit and proper, the Board may take into account any matter it thinks appropriate, including the matters set out at Rule 13(1) of the Rules.

Practitioners should refer to Rule 13 when completing their application for a full description of matters that the Board can take into account.

The Board may find that a person is a fit and proper person where circumstances warrant (s.45(4) of the Uniform Law).

In determining whether the applicant is a fit and proper person, the Board will also consider a practitioner's disclosure obligations outlined in the Board's 'Fit and Proper Person Policy' and 'Mental Health Policy', which are available on the Board's website.

Practitioners should read these policies and note that case law generally affirms that honesty, candour and frankness are particularly relevant to a person's fitness and propriety. Mental illness, however, is not relevant where it is appropriately managed and has no impact on the practitioner's capacity to engage in legal practice.

If any of the matters referred to above are applicable to you, or if there are any other matters which you think may be relevant, please attach a written statement addressing each of these matters to this form.

*Matters previously disclosed to an admission authority*

Please also provide details of any matters which you have previously disclosed in an application for admission in an Australian jurisdiction, including Victoria. If, however, you have already disclosed these matters to the Victorian Legal Services Board you are not required to provide the details again in your current application. These matters will not generally be considered by the Board unless, together with your current disclosures, they form part of a course of conduct that may affect a person's suitability to practise.

**Note J – Show cause or notifiable events**

Under s.87(2) and s.88(2) of the Uniform Law, if an automatic show cause event has happened to you prior to this application, you must disclose this in your application for the grant or renewal of an Australian practising certificate. This is done by providing the Board with a written statement about the automatic show cause event explaining why, despite this event, you consider yourself to be a fit and proper person to hold a certificate.

You will not be required to disclose the show cause event if it has previously been disclosed to the Board. Show cause events are found in s.85 of the Uniform Law, and s.86 provides that an 'automatic show cause event' refers to a 'bankruptcy-related event', 'serious offence' and 'tax offence'. These terms are defined in s.6 of the Uniform Law. Part 3.5, Division 4 of the Uniform Law describes the Show Cause procedure.

A 'Notice of show cause event' form is available on the Forms page on the Board's website.

Please note, you have an ongoing obligation under ss.51 and 88 of the Uniform Law to disclose show cause or other notifiable events to the Board and provide:

- notice of the event within 7 days; and
- with regard to show cause events, a written statement explaining why, despite the event, you still consider yourself to be a fit and proper person to hold an Australian practising certificate within 28 days after the event occurring. If the written statement is provided after 28 days, the Board may accept the statement and take it into consideration.

Under s.89(2) the Board may refuse to grant or renew an Australian practising certificate if:

- you are required to provide a written statement (as outlined above) and fail to do so; or
- you have provided a written statement, but the Board does not consider that you have shown in the statement that, despite the show cause event, you are a fit and proper person to continue to hold a practising certificate.

**Note K – Continuing professional development (CPD)**

Under s.52 of the Uniform Law, it is a statutory condition of an Australian practising certificate that you comply with the CPD Rules. This condition applies wherever you are located.

On renewal an Australian legal practitioner must certify to the Board whether they have complied with the CPD requirements for the preceding CPD year ending 31 March.

An Australian legal practitioner is required to complete 10 CPD units, including at least 1 CPD unit in each of the 4 compulsory fields, during the CPD year last ended. The CPD Rules allow *pro rata* reductions for practitioners who did not hold a practising certificate for the whole of the preceding CPD year. The CPD Rules also allow for whole or part exemptions to be granted on written application from the practitioner.

This means you will have complied with the CPD Rules if you:

- completed 10 CPD units, including at least 1 CPD unit in each of the 4 compulsory fields, during the CPD year last ended; or
- completed the requisite CPD units in accordance with the CPD Rules allowing *pro rata* reductions for practitioners who did not hold a practising certificate for the whole of the preceding CPD year. This includes completion of the compulsory fields as part of remaining units; or
- were granted a part exemption from CPD compliance in relation to the CPD year last ended and completed the remaining CPD units. This includes completion of the compulsory fields as part of remaining units.

If you have not complied with the CPD Rules you must answer ‘No’ to the CPD compliance statement. You may not be granted a practising certificate until you have complied with the CPD requirements. You will be required to submit a CPD Rectification Plan to the Board’s delegate (the Law Institute of Victoria (LIV) or Victorian Bar) setting out the steps you intend to take to rectify the non-compliance within 90 days after the Plan is submitted. A *pro forma* Rectification Plan is available on the LIV website. For more information:

- Barristers - contact the Bar via email [pcrenewals@vicbar.com.au](mailto:pcrenewals@vicbar.com.au)
- Practitioners other than barristers - refer to the LIV website <https://www.liv.asn.au> or email [compliance@liv.asn.au](mailto:compliance@liv.asn.au)

**Note L – Declaration by an individual applying for a practising certificate**

You must complete the declaration by ticking the declaration on LSB Online. If you answer yes to this question your application will not progress, as you cannot hold concurrent Australian practising certificates under the Uniform Law. Please note that obtaining an Australian practising certificate on the basis of incorrect or misleading information is a matter which may be taken into account by the Board when considering whether or not a person is a fit and proper person to hold a practising certificate.

*Law Library of Victoria*

The form includes a question from the Supreme Court Library seeking consent for the Board to provide your details to the Law Library of Victoria. If you tick ‘yes’, you’ll be sent an email inviting you to register for access to the member-only portal on the Law Library of Victoria website, which incorporates the Supreme Court Library.

**Note M – Applying for renewal of a practising certificate between 1 May and 30 June - late lodgement surcharge**

Under s.75 of the Act, you may apply for renewal of an Australian practising certificate after 30 April on payment of a surcharge of:

- 25% of the prescribed renewal fee if the application is made on or before 31 May;
- 50% of the prescribed renewal fee if the application is made after 31 May.

The Board may refund all or part of the surcharge if it believes that special circumstances apply. If you believe that special circumstances apply you must pay the surcharge, and include with your application a written statement to the Board outlining the special circumstances.

The renewal form may not be submitted after 30 June. If you fail to submit an application for renewal of a practising certificate by 30 June, you will be required to submit an application for a grant of a practising certificate and pay a surcharge calculated in accordance with s.73(2) of the Act. You are not permitted to engage in legal practice until you have been granted a practising certificate. Engaging in unqualified legal practice can have serious repercussions. RPA News bulletin #27 deals with this issue: [http://www.lsb.vic.gov.au/documents/RPA\\_News\\_27\\_May\\_2016.pdf](http://www.lsb.vic.gov.au/documents/RPA_News_27_May_2016.pdf)

**Note N – Applying for a practising certificate between 1 July and 30 September - late lodgement surcharge**

Under s.73(2) of the Act, if you held an Australian practising certificate granted in this jurisdiction on 30 June and you lodge a practising certificate application between 1 July and 30 September, you must pay a surcharge of 200% of the prescribed fee. The Board may refund all or part of the surcharge if it believes that special circumstances apply. If you believe that special circumstances apply, you must pay the surcharge, and include with your application a written statement to the Board outlining the special circumstances.

*Exception*

The above requirement in s.73(2) of the Act will not apply if the application for a practising certificate is accompanied by a statutory declaration in accordance with s.73(3) of the Act addressing the following points:

- you have not engaged in legal practice since the end of the previous financial year;
- as at the end of the previous financial year, you did not intend to engage in legal practice for at least the first three months of the current financial year; and
- the reasons why the intention referred to in the previous paragraph changed.

**Note O – Practising certificate types and prescribed fees**

Under s.47(1) of the Uniform Law, an Australian practising certificate granted in this jurisdiction will authorise the holder to engage in legal practice in one of six capacities. Under s.73 of the Act, a practising certificate application must be accompanied by the prescribed fee. The following table sets out the prescribed fees for each type of practising certificate.

Practising Certificate Type	Renewal fee 2019-20
Principal of a law practice • authorised to receive trust money • <b>not authorised</b> to receive trust money	\$637 \$444
Employee of a law practice with/without receipt of trust money	\$415
Barrister	\$360
Corporate legal practitioner	\$250
Principal legal practitioner of CLS with/without receipt of trust money	\$229
Employee legal practitioner of CLS	\$229
Government legal practitioner	\$229
Volunteer at a CLS/ <i>pro bono</i>	No fee

These fees are pro-rated on a quarterly basis. Please refer to the Board’s website for the pro-rated fees for 2018-19.

**Note P – Fidelity Fund Contribution**

Under s.73(1)(b) of the Act, a practising certificate application must be accompanied by any required Fidelity Fund contribution under s.225 of the Uniform Law. The table below sets out the Fidelity Fund contribution classes and corresponding fees. These fees are pro-rated on a quarterly basis.

**Note Q – Professional indemnity insurance (PII)**

Under s.211 of the Uniform Law, an Australian legal practitioner must not engage in legal practice in Victoria unless the practitioner holds or is covered by an approved insurance policy, and the policy covers that legal practice. The same applies to an ILP by virtue of s.212. For exemptions from the requirements to hold approved PII see s.215. A policy of professional indemnity insurance is an approved insurance policy if the policy is issued by the Legal Practitioners’ Liability

Committee (LPLC), or it has been issued by another insurer and it has been approved by the Board (see s.13 of the Act).

For further information about obtaining PII, please contact the LPLC on (03) 9672 3800. For further information about obtaining an exemption from PII, please refer to the Board's website.

The LPLC will provide the Board with notification that your PII has been paid. Principal, employee, and volunteer practising certificates cannot be granted or renewed for any applicant who is not covered by PII as required by the Uniform Law. If you hold a corporate or government practising certificate, the onus will be on you to ensure that you are covered by your employer's insurance or self-insurance arrangements.

#### *PII for Community Legal Services (CLSs)*

Under s.213 of the Uniform Law, CLSs must have insurance on terms and conditions approved by the Board. Further information on PII for CLSs is available on the Board's website.

#### *PII for practitioners engaged in pro bono work*

All practitioners who provide legal services on a *pro bono* basis outside of a CLS must hold, or be covered by, an approved PII policy which covers *pro bono* work.

Under s.13 of the Act, the Board can approve insurance for corporate legal practitioners or government legal practitioners providing legal services on a *pro bono* basis. Practitioners who hold a PII policy authorising *pro bono* work which has not been approved by the Board, or issued by the LPLC, can apply for an exemption pursuant to s.215 of the Uniform Law.

#### *PII for overseas-based Victorian practitioners*

Section 211 of the Uniform Law only requires practitioners to hold professional indemnity insurance when engaging in legal practice 'in this jurisdiction'.

Only when practitioners intend to continue advising Victorian clients, or intend to practise in Victoria from their overseas base, will they be required to be covered by an approved insurance policy, or exempted under s.215 of the Uniform Law.

#### **Note R – Practice Contingency Plan**

The Victorian Legal Services Board has developed a Practice Contingency Planning Policy. This will assist sole practitioners and sole ILP directors to create a plan to manage their law practice's affairs if they are incapacitated.

The policy is voluntary but highly recommended to avoid trauma to your family, disruption to your clients and the costs of an external intervention.

If you have a plan, please select 'Yes'. You can upload your plan to LSB Online and it will be held by the Victorian Legal Services Board. It will only be accessed if you are unable to manage your law practice. If you do not have a plan, please consider creating one. You may upload your plan at any time via the 'Change of personal details or place of practice' page in LSB Online.

#### **ALL APPLICANTS NOTE:**

1. An application must include all mandatory information (including payment). If it does not, it will not be processed.
2. Late lodgement surcharges apply for renewal applications made between 1 May and 30 June (see Note M).
3. It is at the Board's discretion whether to grant, vary or renew an Australian practising certificate. The lodgement of an application form with the relevant fees does not entitle the applicant to commence practice. A practitioner who engages in legal practice without a valid practising certificate is engaging in unqualified legal practice. Practising without a certificate can result in a heavy fine, misconduct charges or even gaol. Further, it requires a refund of client fees.
4. The following applies to renewal applications only. Where an application for the renewal of an Australian practising certificate has been properly made before its expiry but the Board has not determined the application by the following 1 July, the existing certificate is taken to continue in force on and from that 1 July until the Board renews or refuses to renew the practising certificate unless the practising certificate is earlier suspended, cancelled or surrendered, or the application withdrawn.
5. Where an application is refused, the Board will notify the applicant and refund the application fees in due course.
6. A practising certificate cannot be granted or renewed unless the appropriate professional indemnity insurance requirements are in place prior to 1 July. A law practice must have professional indemnity insurance cover with the Legal Practitioners' Liability Committee before commencing to engage in legal practice. This insurance must be maintained at all times while engaged in legal practice in Victoria. A law practice may apply to the Board for an exemption from professional indemnity insurance requirements. For further information, please see Note Q and the information available on the Board's website at [www.lsbc.vic.gov.au](http://www.lsbc.vic.gov.au).
7. A practising certificate will be issued with the supervised legal practice condition unless the condition is not applicable to the practitioner, or the practitioner's application for exemption or removal of the condition has been granted. For further information, please see the supervised legal practice information on the Board's website at [www.lsbc.vic.gov.au](http://www.lsbc.vic.gov.au)

#### **Lodgment of form**

All legal practitioners:  
Lodgment via LSB Online.

If any queries:

Barristers email [pcrenewal@vicbar.com.au](mailto:pcrenewal@vicbar.com.au)

Practitioners other than barristers email [online@lsbc.vic.gov.au](mailto:online@lsbc.vic.gov.au)

The Victorian Legal Services Board has determined the following Fidelity Fund contribution classes:

Class	Type	Renewal contribution 2019-20
1	<p><b>Australian legal practitioner/approved clerk</b>  <b>Authorised to receive trust money - received trust money exceeding the \$750,000 threshold.</b>                      Approved clerks or holders of an Australian practising certificate that:</p> <ul style="list-style-type: none"> <li>are authorised to receive trust money; and</li> <li>received, or were a principal, employee or a director of a law practice that received trust money exceeding the \$750,000 threshold in total during the year ending on 31 October of the previous year.</li> </ul>	\$553
2	<p><b>Australian legal practitioner</b>  <b>Principal practising certificate not authorised to receive trust money - law practice that received trust money exceeding the \$750,000 threshold</b>                      Holders of an Australian principal practising certificate that authorises the person to engage in legal practice but:</p> <ul style="list-style-type: none"> <li>does not authorise the receipt of trust money; and</li> <li>are a principal, employee or a director of a law practice that received trust money exceeding the \$750,000 threshold in total during the year ending on 31 October of the previous year.</li> </ul>	\$553
3	<p><b>Australian legal practitioner/approved clerk</b>  <b>Authorised to receive trust money - received trust money not exceeding the \$750,000 threshold</b>                      Approved clerks or holders of an Australian practising certificate that:</p> <ul style="list-style-type: none"> <li>are authorised to receive trust money; and</li> <li>received, or were a principal, employee or a director of a law practice that received trust money within the range of \$Nil – \$750,000 threshold in total during the year ending on 31 October of the previous year.</li> </ul>	\$277
4	<p><b>Australian legal practitioner</b>  <b>Principal practising certificate not authorised to receive trust money - law practice that received trust money not exceeding the \$750,000 threshold</b>                      Holders of an Australian principal practising certificate that authorises the person to engage in legal practice but:</p> <ul style="list-style-type: none"> <li>does not authorise the receipt of trust money; and</li> <li>are a principal, employee or a director of a law practice that received trust money within the range of \$Nil – \$750,000 threshold in total during the year ending on 31 October of the previous year.</li> </ul>	\$277
5	<p><b>Employee practising certificate and not authorised to receive trust money</b>                      The holder of an Australian employee practising certificate that authorises the person to engage in legal practice but does not authorise the receipt of trust money and who is employed by a law practice that is authorised to receive trust money.</p>	\$134
6	<p><b>Exempt entities/community legal services</b>                      Barristers, government legal practitioners, corporate legal practitioners, sole practitioners not authorised to receive trust money, employee practitioners/foreign lawyers employed by a sole practitioner or law practice not authorised to receive trust money, interstate practitioners, and employees/volunteers at community legal services.</p>	Nil

These contributions are pro-rated on a quarterly basis. Please refer to the Board’s website for the pro-rated contributions for 2019-20.