

Consultation paper on proposed changes to the rules regarding the admission of foreign lawyers

June 2021

PO Box H326, Australia Square NSW 1215
P 02 8293 5900 E lsc@legalservicescouncil.org.au
legalservicescouncil.org.au

Table of Contents

CALL FOR SUBMISSIONS	3
APPLICABLE LEGISLATION	3
BACKGROUND	4
The expressed concerns.....	4
The Committee's response to the expressed concerns	4
Issues identified in the review	5
The Committee's response to the issues identified in the review	6
Changes proposed by the Committee	7
THE 2021 RULE	8
CONCLUSION	9

Call for Submissions

The Legal Services Council's (**Council's**) Admissions Committee (**Committee**) invites public comment on a proposed rule to amend the Legal Profession Uniform Admission Rules 2015 (**Admission Rules**) regarding the admission of foreign lawyers to the Australian legal profession; and the clarification and standardisation of the wording of some rules already in force.

Submissions can be sent to the Committee by email to: submissions@legalservicescouncil.org.au on or before **Friday 30 July 2021**, and may be published on the Council's website unless the Committee is advised otherwise.

Applicable legislation

Part 2.2 of the Legal Profession Uniform Law (**Uniform Law**) provides for the admission of eligible persons to the legal profession. The objective of Part 2.2 is to protect the administration of justice and the clients of law practices by providing a system under which persons are eligible for admission to the Australian legal profession only if they have appropriate academic qualifications and practical legal training (**PLT**)¹ and they are fit and proper persons to be admitted.

In every case, a person may be admitted to the Australian legal profession if a compliance certificate in respect of that person is provided by the admitting authority to the relevant Supreme Court, and the certificate is still in force.²

[Section 17 of the Uniform Law](#) specifies the academic and PLT requirements for the issue of a compliance certificate. The content of those prerequisites is found in the [Admission Rules](#). [Admission Rule 5](#) refers to [Schedule 1](#) which lists the core academic requirements (commonly known as the **Priestley 11**) while [Admission Rule 6](#) refers to [Schedule 2](#) which outlines the PLT requirements.

In appropriate cases, the Uniform Law allows exemption from satisfaction of the specified academic qualification and PLT prerequisites (together, **prerequisites**).³

An applicant for admission who completes the prerequisites or is exempted from them may be issued a compliance certificate by the admitting authority.⁴ The compliance certificate may be unconditional or may be subject to a condition recommended by the admitting authority.⁵

Under the Uniform Law, the onus is on the applicant to produce evidence that satisfies the admitting authority that the applicant has appropriate qualifications and PLT to protect the administration of justice and the clients of law practices.

¹ [Section 15 of the Uniform Law](#). This paper deals with appropriate academic qualifications and PLT for admission but not with matters of fitness and propriety.

² [Section 16 of the Uniform Law](#).

³ [Section 18 of the Uniform Law](#).

⁴ [Section 19\(3\) of the Uniform Law](#).

⁵ [Section 20 of the Uniform Law](#).

Background

The expressed concerns

In late 2017, the Committee heard concerns about the admission of foreign lawyers in the Uniform Law jurisdictions. Specifically, several law firms and foreign applicants for admission in NSW and Victoria claimed that s 18 of the Uniform Law could be applied more broadly to:

- Facilitate the employment of experienced foreign lawyers in large law firms
- Enhance the opportunity for foreign lawyers to share their expertise with local lawyers
- Increase Australia's ability to offer legal services in the global market.

The expressed view was that the words of s 18 allowed a foreign lawyer who has practised law for many years overseas, to be credited with skills and experience for that practice, as well as for the learning that accompanies years of legal practice.⁶ It was argued that such crediting should manifest in an exemption not only from PLT requirements but also from any requirement to complete a set of subjects that may have limited relevance to the foreign lawyer's specialist expertise or legal practice. This exemption, it was said, does not define its own content, and therefore comprises lifting a requirement to study one, several or all the undergraduate core subjects; or to undertake none of, part of or all the PLT.

It was suggested that while experienced local lawyers rarely retain full knowledge of the studies completed for their original qualifications, experienced foreign applicants who are unable to demonstrate equivalent qualifications attained overseas are required to complete studies in some or all the undergraduate core subjects.

Additionally, a concern was articulated that the process of assessing admission applications is insufficiently transparent because the admitting authorities do not provide an applicant with their reasons for declining to grant exemption from further study and/or PLT or for giving a direction to undertake further study and/or PLT.

The Committee's response to the expressed concerns

In early 2018, the Committee resolved to conduct a review of the procedures for the admission of foreign lawyers in NSW and Victoria.

Information and comment were invited from the Legal Profession Admission Board (NSW) and the Victorian Legal Admissions Board (together, **Boards**), the Council of Australian Law Deans, the Law Council of Australia, Law Firms Australia, the Law Society of NSW, the Victorian Legal Services Board, the Law Institute of Victoria, the Australian Bar Association and the NSW and Victorian Bar Associations.

The Committee received responses from several of those bodies.

⁶ This was said to be especially so in the case of an experienced foreign lawyer who has developed a speciality or area of practice and has practised in that speciality or area for several years.

Issues identified in the review

The following issues were identified in the review.

1. Lack of guidance in the Admission Rules

Admission Rule 5 as currently worded does not allow for the admission of a person who has not completed a tertiary legal qualification in Australia.

Admission Rules 5 and 6 provide insufficient guidance to the admitting authorities when assessing whether an applicant's academic and practical training qualifications are adequate to fulfil the objectives of the Uniform Law.⁷ In particular, the rules do not draw a distinction between experienced and inexperienced foreign lawyers in relation to suitability for admission.

2. Admission authority reliance to varying degrees on non-Uniform Law principles

In the absence of guidance for assessing foreign lawyers' applications for admission, the admitting authorities have continued to rely to varying degrees on the Law Admissions Consultative Committee's Uniform Principles for Assessing the Qualifications of Overseas Applicants for Admission to the Australian Legal Profession (**Uniform Principles**).

The Uniform Principles are a guide and without legislative basis. They promote equivalence testing in both academic and practical legal education. Further, while they refer to experience that is current, relevant and substantial, the word 'relevant' has been construed so that an applicant's experience in a certain area may result only in subject exemptions in the same area.

The Uniform Principles provide little or no scope for the learning acquired through years of practice to be credited in satisfaction of the academic requirements of Admission Rule 5.

3. Section 18 of the Uniform Law

The word 'relevant' in s 18 appears at times to be construed in the same way as it is in the Uniform Principles. Such a construction fails to acknowledge the fact that an applicant with seven or more years' experience in legal practice will also be experienced in other matters, such as ethics and professional responsibility.

The meaning of the word 'exempt' has been construed as allowing a dispensation from further academic study or PLT only when the prerequisites have been deemed fully satisfied. This results when the applicant's qualifications are substantially equivalent to those of an Australian educated law graduate. That is, the section has been read as allowing a dispensation from further academic study or PLT only when the applicant has completed substantially equivalent studies and training overseas.

⁷ Section 3: promoting the administration of justice and an efficient and effective Australian legal profession by ... ensuring lawyers are competent and maintain high ethical and professional standards in the provision of legal services; ...

Section 15: to protect the administration of justice and the clients of law practices by providing a system under which persons are eligible for admission to the Australian legal profession only if—

(a) they have appropriate academic qualifications and practical legal training, whether obtained in Australia or elsewhere; and ...

To circumvent the apparent difficulties posed by the word 'exempt' in s 18, the dispensing power in Admission Rule 27⁸ has been relied upon to grant exemptions to applicants in circumstances where it would otherwise have been unreasonable to refuse.

There are currently no Admission Rules to guide the admitting authorities as to what is an appropriate case when assessing an application for exemption under s 18.

4. The process for admitting foreign lawyers

The process for admitting foreign lawyers appears the same in both Uniform Law jurisdictions.

In response to the concern that the process lacks transparency, the admitting authorities indicated that they provide reasons for their decisions upon request. Accordingly, the alleged lack of transparency may be an issue of perception rather than reality. Nevertheless, it remains an issue that the Committee believes should be addressed.

5. Foreign lawyers and legal practice regulators

The Uniform Law regulatory authorities in each state report that foreign lawyers admitted to practice have not been the subject of complaints and are considered a low risk group.

The Committee's response to the issues identified in the review

The Committee responded to issues identified in the review by seeking change that was consistent with the objectives of the Uniform Law as relevantly set out in s 15 — to protect the administration of justice and the clients of law practices by providing a system under which persons are eligible for admission to the Australian legal profession only if they have appropriate academic qualifications and PLT.

Therefore, each application for admission must be assessed to ensure that the applicant has appropriate academic qualifications and practical training *for the purposes of protecting the administration of justice and the clients of law practices* without necessarily being the same or even substantially equivalent to the qualifications of an Australian graduate.

This gives rise to five matters:

1. The Committee considers that graduate level competence in the Priestley 11 and PLT, is not the only way to demonstrate appropriate academic qualifications and practical skills. Other qualifications may be appropriate. They are considered in the wording of s 18(2) which provides that exemptions may be given for legal skills and/or relevant experience obtained in legal practice, in service with a government authority or in another way considered appropriate.
2. The Committee notes that many Australian graduates after completing their supervised legal training and a practice management course, may within two years of graduation become a sole practitioner offering services in Succession and Family Law, neither of which is a Priestley 11 subject.
3. It is undeniable that during seven years of legal practice, a foreign lawyer will obtain skills and experience unavailable to a new graduate.
4. If s 18 is rendered impotent if it is applied in a way that satisfying the prerequisites is the only basis for being exempted from satisfying the prerequisites.

⁸ Admission Rule 27.

5. The regulatory authorities state that foreign lawyers have so far not been the subject of complaint or disciplinary action.

With these objectives and issues in mind, the Committee resolved to develop amendments to the Admission Rules as drafted in the Legal Profession Uniform Admission Amendment (Qualifications) Rule 2019 (**2019 Rule**).

Consultation on the 2019 Rule commenced in April 2019. Stakeholders responded with diverse and sometimes polarised views, all strongly held, except regarding proposed amendments to Admission Rules 5 and 6.

In June 2020, the Committee resolved to refer the matter to its Foreign Lawyers Working Group (**Working Group**) as it was too complex, technical and voluminous to be adequately considered in scheduled Committee meetings. The Working Group, which comprised the Chair and members of the Committee as well as representatives of the Boards, met on 18 August 2020 and made recommendations to the Committee which were adopted on 3 September 2020.

On 15 December 2020, the Working Group met with invited speakers from the Boards to advise the Committee of the practical implications of the proposed changes and to consider options regarding the content and format of further studies for experienced foreign lawyers. Additionally, the Working Group created a subgroup (**Subgroup**), also comprising the Committee Chair and representatives of the Boards, to consider the difficult outstanding paragraphs of the 2019 Rule together with the stakeholders' responses they evoked.

The Subgroup met on 19 to 22 January 2021. It made recommendations to the Working Group which met again on 2 February 2021. The Working Group then made recommendations to the Committee on 18 February 2021. On that occasion, after all submissions had been considered, the Committee resolved to develop a modified rule taking those submissions into account.

Changes proposed by the Committee

The Committee proposed the following changes and interpretations:

- Clarify the wording of Admission Rules 5 and 6
- Increase the scope of Admission Rules 5 and 6 to provide better guidance to the admitting authorities when applying s 17 of the Uniform Law
- Allow the admission of foreign lawyers without them having to complete a tertiary qualification in Australia
- Acknowledge that the prerequisites are met by a foreign lawyer complying with the directions of an admitting authority
- Introduce a threshold for experience as engaging in legal practice (including a period of supervision) of at least seven years
- Distinguish between inexperienced applicants and experienced applicants for admission, where appropriate
- Entitle a foreign lawyer with seven or more years' post-qualification experience, including an appropriate training contract or supervision period, to have their legal skills and relevant experience as described in s 18, assessed by reference to several factors, drawn from areas that in the past have been reliable indicators of risk
- Guide the admitting authorities in their function of assessing factors relevant to granting an exemption from further study and/or PLT

- Assist the admitting authorities with assessing creditworthy experience by listing factors that might indicate the same
- Make known the Committee's view that the meaning of the word 'exempt' in s 18 is to free or release or excuse a person from a rule, obligation or liability imposed on others. The word 'exempt' does not prescribe the content of the exemption. Therefore, a direction to study fewer than all the compulsory core undergraduate subjects is still an exemption from the requirement to study them all. The same applies to PLT. Therefore, an exemption from:
 - the specified academic qualifications prerequisite is effected by granting a release from the obligation to study one, several or all subjects listed in Schedule 1
 - the specified PLT prerequisite is effected by granting a release from the obligation to demonstrate one, more or all the competencies listed in Schedule 2
- Guide the admitting authorities in their function of giving a direction
- Remove from the admitting authorities the requirement to issue directions to persons who are ineligible for admission overseas
- Link the process of giving a direction with the process of assessing whether to grant an exemption, if requested
- Retain a broad discretion in the admitting authorities to consider other matters relevant to suitability for admission, both in relation to assessing experience and when giving a direction
- Empower the admitting authorities to take into account matters they consider relevant to the question of what, if any, further study or PLT the applicant should undertake
- Highlight conditional admission as an option for foreign lawyers
- Dispel perceptions of lack of transparency by mandating that, if asked, the admitting authority must provide reasons for refusing to grant an exemption under s 18 or for directing further study and/or PLT under Admission Rule 11.

The 2021 Rule

On 30 March 2021, the Committee considered a modified rule — the Legal Profession Uniform Admissions (Qualifications) Rule 2021 (**2021 Rule**) and resolved to commence consultation under s 426(3)(a) of the Uniform Law. On 27 April 2021, the Council approved the start of public consultation under s 426(3)(b) of the Uniform Law.

In response to stakeholder comments that some wording of the 2021 Rule could be clearer, a further version of the rule was drawn. The change in text better aligns with the language of Uniform Law s 421(2) and averts circularity between proposed rr 5(1)(b) and 11. It also ensures that s 18 exemptions are not confined to foreign lawyers.

On 10 June 2021, the Committee confirmed that the substance, meaning and effect of the further version were unchanged from the earlier and decided to commence public consultation. For ease of reference:

- **Attachment A** is a copy of the public consultation draft 2021 Rule d.20.
- **Attachment B** is a document comparing the text of the relevant current Admission Rules with the text of the relevant Admission Rules if 2021 Rule d.20 is made.
- **Attachment C** is a document that reads as the relevant Admission Rules would read if 2021 Rule d.20 is made.

When developing the further version, the Committee considered the comments, concerns and otherwise diverse views expressed by stakeholders about the 2019 Rule and the 2021 Rule, and it believes that the 2021 Rule d.20 maps a path forward through those concerns, comments and views.

Conclusion

The Uniform Law and the proposed changes reflect a shift from the quantitative: comparing previous studies and skills to ascertain substantial equivalence in every case — to the qualitative: looking critically at whether an applicant requires further education or training to avoid harming the administration of justice and the clients of law practices.

The Committee is confident that the proposed changes better align the Admission Rules with the words and intent of the applicable provisions of Part 2.2 of the Uniform Law.



New South Wales

Legal Profession Uniform Admission Amendment (Qualifications) Rule 2021

under the

Legal Profession Uniform Law

The Legal Services Council has made the following Rule under the *Legal Profession Uniform Law*.

Chief Executive Officer
Legal Services Council

Legal Profession Uniform Admission Amendment (Qualifications) Rule 2021 [NSW]

Legal Profession Uniform Admission Amendment (Qualifications) Rule 2021

under the

Legal Profession Uniform Law

1 Name of Rule

This Rule is the *Legal Profession Uniform Admission Amendment (Qualifications) Rule 2021*.

2 Commencement

This Rule commences on the day on which it is published on the NSW legislation website.

3 Authorising provision

This Rule is made by the Legal Services Council under Part 9.2 of the *Legal Profession Uniform Law*.

Schedule 1 Amendment of Legal Profession Uniform Admission Rules 2015

[1] Rule 5 Specified academic qualifications prerequisite

Omit rule 5(1). Insert instead—

- (1) For the purposes of section 17(1)(a) of the Uniform Law, subject to these Rules, the specified academic qualifications prerequisite is satisfied by—
 - (a) successfully completing a tertiary academic course in Australia, whether or not leading to a degree in law, that—
 - (i) includes the equivalent of at least 3 years' full-time study of law, and
 - (ii) is accredited by the Board, and
 - (iii) the Board determines will provide for a student to acquire and demonstrate appropriate understanding and competence in each element of the academic areas of knowledge set out in Schedule 1, or otherwise determined by the Admissions Committee after consulting each of the Boards, or
 - (b) successfully completing academic qualifications obtained overseas, if the Board has given a direction under rule 11(1)(a) that the qualifications are sufficient, or
 - (c) if the Board has given a direction under rule 11(1)(b) for the person to obtain further academic qualifications—successfully completing the further qualifications determined by the Board.

[2] Rule 6 Specified practical legal training prerequisite

Omit rule 6(2). Insert instead—

- (2) The requirement may be satisfied by—
 - (a) successfully completing—
 - (i) a practical legal training course conducted by a practical legal training provider accredited by the Board, or
 - (ii) supervised legal training in a workplace for a period of not less than 12 months under a training plan approved by the Board, which the Board determines adequately provides for the trainee to satisfy the requirements of subrule (1), or
 - (b) successfully completing practical legal training obtained overseas, if the Board has given a direction under rule 11(2)(a) that the training is sufficient, or
 - (c) if the Board has given a direction under rule 11(2)(b) for the person to obtain further training—successfully completing the further training determined by the Board.

[3] Rule 6A

Insert after rule 6—

6A Exemptions from certain prerequisites

- (1) For the purposes of section 419(3) of the Uniform Law, this rule applies in addition to section 18 of the Law.
- (2) In considering whether or not to exempt a person from satisfying the specified academic qualifications prerequisite or the specified practical legal training

- prerequisite, or both, under section 18 of the Uniform Law, the Board may take into account any matter the Board considers relevant.
- (3) In considering whether or not to exempt a person who is eligible for admission in a foreign jurisdiction, the Board must take into account—
- (a) for an applicant who has worked as a practising lawyer in a foreign jurisdiction for a total of at least 7 years—
 - (i) the extent to which the legal system and regulatory framework of the foreign jurisdiction are substantially equivalent to those of this jurisdiction, and
 - (ii) the number of years the applicant has practised law, and
 - (iii) the type of legal practice the applicant has engaged in, and
 - (iv) the nature of the applicant’s previous work, including the applicant’s level of responsibility and experience in holding money on trust, or
 - (b) for any other applicant, the extent to which—
 - (i) the academic qualification in law leading to legal practice in the foreign jurisdiction wholly or partially completed by the applicant is substantially equivalent to the academic qualifications prerequisite, and
 - (ii) any practical legal training in the foreign jurisdiction completed by the applicant is substantially equivalent to the practical legal training prerequisite.
- (4) For the purposes of subrule (3)(a), time spent working under the supervision of a practising lawyer does not count towards the 7 years of legal practice unless the legal system and regulatory framework of the foreign jurisdiction are substantially equivalent to those of this jurisdiction.
- (5) The Board must provide reasons for refusing to issue an exemption under section 18 of the Uniform Law if requested to do so by the applicant.

[4] Rule 11 Directions about qualifications

Omit rule 11(1)–(3). Insert instead—

- (1) A person eligible for admission in a foreign jurisdiction may apply to the Board for a direction about—
 - (a) the sufficiency of the person’s qualifications obtained overseas, and
 - (b) if the person’s qualifications are not sufficient—the additional academic qualifications that must be acquired by the person to meet the specified academic qualifications prerequisite.
- (2) A person who has been admitted in a foreign jurisdiction may apply to the Board for a direction about—
 - (a) the sufficiency of the person’s training obtained overseas, and
 - (b) if the person’s training is not sufficient—the additional understanding and competencies that must be acquired by the person to meet the specified practical legal training prerequisite.
- (3) Before making a direction under this rule, the Board must, at the applicant’s request, consider whether or not to exempt the applicant from satisfying the specified academic qualifications prerequisite or the specified practical legal training prerequisite or both under section 18 of the Uniform Law.

Legal Profession Uniform Admission Amendment (Qualifications) Rule 2021 [NSW]
Schedule 1 Amendment of Legal Profession Uniform Admission Rules 2015

(3A) Before making a direction under this rule, the Board may take into account any other matter the Board considers relevant.

[5] Rule 11(4)

Omit “under subrule (1) or (2)”. Insert instead “under this rule”.

[6] Rule 11(4)(b)

Insert “including further academic subjects, examinations or practical legal training,” after “Board.”.

[7] Rule 11(5)

Insert after rule 11(4)—

(5) The Board must provide reasons for giving a direction under this rule if requested to do so by the applicant.

[8] Rule 11A

Insert after rule 11—

11A Request for conditional admission

- (1) For the purposes of section 419(3) of the Uniform Law, this rule applies in addition to section 20 of the Law.
- (2) The Board must, at the request of a foreign lawyer, consider whether or not to make a recommendation under section 20 of the Uniform Law that the foreign lawyer be admitted subject to conditions of one or more of the kinds specified in section 20(1) of the Uniform Law.

Comparison of current Admission Rules with Admission Rules if the 2021 Draft Rule d.20 is made

Rule	Current text	Text if d.20 is made	Effect of the Change
5(1)(a)	For the purposes of section 17 (1) (a) of the Uniform Law, subject to these Rules, the specified academic qualifications prerequisite is successfully completing a tertiary academic course in Australia, whether or not leading to a degree in law, which: includes the equivalent of at least 3 years' full-time study of law,	For the purposes of section 17(1)(a) of the Uniform Law , subject to these Rules, the specified academic qualifications prerequisite is satisfied by: successfully completing a tertiary academic course in Australia whether or not leading to a degree in law, that— i. includes the equivalent of at least 3 years' full-time study of law, and ii. is accredited by the Board, and iii. the Board determines will provide for a student to acquire and demonstrate appropriate understanding and competence in each element of the academic areas of knowledge set out in Schedule 1 , or otherwise determined by the Admissions Committee after consulting each of the Boards, or	For the purposes of admission, recognises: <ul style="list-style-type: none"> • a person other than an Australian educated law graduate • that a person may satisfy the prerequisites by complying with the directions of an admitting authority (Board).
5(1)(b)	is accredited by the Board, and	successfully completing academic qualifications obtained overseas, if the Board has given a direction under rule 11(1)(a) that the qualifications are sufficient, or	
5(1)(c)	the Board determines will provide for a student to acquire and demonstrate appropriate understanding and competence in each element of the academic areas of knowledge set out in Schedule 1, or otherwise determined by the Admissions Committee after consulting each of the Boards.	if the Board has given a direction under rule 11(1)(b) for the person to obtain further academic qualifications—successfully completing further qualifications determined by the Board.	
6(2)(a)	The requirement may be satisfied by successfully completing either: a practical legal training course conducted by a practical legal training provider accredited by the Board, or	The requirement may be satisfied by: successfully completing— i. a practical legal training course conducted by a practical legal training provider accredited by the Board, or ii. supervised legal training in a workplace for a period of not less than 12 months, under a training plan approved by the Board, which the Board determines adequately provides for the trainee to satisfy the requirements of subrule (1), or	

Rule	Current text	Text if d.20 is made	Effect of the Change
6(2)(b)	supervised legal training in a workplace for a period of not less than 12 months, under a training plan approved by the Board, which the Board determines adequately provides for the trainee to satisfy the requirements of subrule (1).	successfully completing practical legal training obtained overseas, if the Board has given a direction under rule 11(2)(a) that the training is sufficient, or	Under the proposed rule, the specified PLT prerequisite can be satisfied by complying with the relevant directions of a Board.
6(2)(c)		if the Board has given a direction under rule 11(2)(b) for the person to obtain further training—successfully completing the further training determined by the Board.	
6A(1)		For the purposes of section 419(3) of the Uniform Law , this rule applies in addition to section 18 of the Law .	Proposed r 6A applies when a Board, exercising Uniform Law s 18 functions, considers whether to grant an applicant an exemption from the prerequisites of rr 5 and 6, whether the legal skills and/or relevant experience were obtained in Australia or overseas.
6A(2)		In considering whether or not to exempt a person from satisfying the specified academic qualifications prerequisite or the specified practical legal training prerequisite or both under section 18 of the Uniform Law, the Board may take into account any matter the Board considers relevant.	
6A(3)(a)		<p>In considering whether or not to exempt a person who is eligible for admission in a foreign jurisdiction, the Board must take into account:</p> <p>for an applicant has worked as a practising lawyer in a foreign jurisdiction for a total of at least 7 years—</p> <ul style="list-style-type: none"> (i) the extent to which the legal system and regulatory framework for practising law in the foreign jurisdiction are substantially equivalent to those of this jurisdiction, and (ii) the number of years the applicant has practised law, and (iii) the type of legal practice the applicant has engaged in, and (iv) the nature of the applicant’s previous work, including the applicant’s level of responsibility and experience in holding money on trust, or 	<p>Creates a distinction between experienced (seven or more years post qualification experience (PQE) and inexperienced (less than seven years PQE applicants.</p> <p>Mandates a consideration of factors that could indicate 'sufficient legal skills or relevant experience so as to render the person eligible for admission' under s 18.</p>

Rule	Current text	Text if d.20 is made	Effect of the Change
6A(3)(b)		for any other applicant, the extent to which— <ul style="list-style-type: none"> (i) the academic qualification in law leading to legal practice in the foreign jurisdiction wholly or partially completed by the applicant is substantially equivalent to the specified academic qualifications prerequisite, and (ii) any practical legal training in the foreign jurisdiction completed by the applicant is substantially equivalent to the specified practical legal training prerequisite. 	Preserves the test of substantial equivalence for foreign lawyers with fewer than seven years' experience.
6A(4)		For the purposes of subrule (3)(a), time spent working under the supervision of a practising lawyer does not count towards the 7 years of legal practice unless the legal system and regulatory framework of the foreign jurisdiction are substantially equivalent to those of this jurisdiction.	Ensures that varying periods of supervision in different jurisdictions do not result in extended early supervision being a disadvantage when seeking admission in Australia.
6A(5)		The Board must provide reasons for refusing to issue an exemption under section 18 of the Uniform Law if requested to do so by the applicant.	Ameliorates perceptions of a lack of transparency.
11(1)	A person who has wholly or partially completed the academic requirements for admission in a foreign jurisdiction may apply to the Board for a direction about what additional academic qualifications must be acquired by that person in order to meet the requirements of rule 5.	A person eligible for admission in a foreign jurisdiction may apply to the Board for a direction about— <ul style="list-style-type: none"> (a) the sufficiency of the person's qualifications obtained overseas, and (b) if the person's qualifications are not sufficient—the additional academic qualifications that must be acquired by the person to meet the specified academic qualifications prerequisite. 	Removes the Board's obligation to provide directions to persons who are ineligible for admission overseas.
11(2)	A person who has completed the practical legal training requirements for admission and has been admitted in a foreign jurisdiction may apply to the Board for a direction about what additional practical legal training understanding and competence must be acquired by that person in order to meet the requirements of rule 6.	A person who has been admitted in a foreign jurisdiction may apply to the Board for a direction about— <ul style="list-style-type: none"> (a) the sufficiency of the person's training obtained overseas, and (b) if the person's training is not sufficient—the additional understanding and competencies that must be acquired by the person to meet the specified practical legal training prerequisite. 	Preserves the requirement that a person seeking a direction about PLT must be admitted overseas but reframes the text of the provision for clarity and to refer to the definition of PLT in current r 6(1).

Rule	Current text	Text if d.20 is made	Effect of the Change
11(3)	<p>The Board must take into account:</p> <p>(a) before making a direction under subrule (1), the extent to which the academic qualification in law leading to legal practice in the foreign jurisdiction wholly or partially completed by the applicant is substantially equivalent to the academic qualifications prerequisite specified in rule 5 (1),</p> <p>(b) before making a direction under subrule (2), the extent to which any practical legal training in the foreign jurisdiction completed by the applicant is substantially equivalent to the practical legal training prerequisite specified in rule 6 (1), and</p> <p>(c) before making a direction under either subrule (1) or (2), any principles for assessing the qualifications of overseas applicants for admission from time to time endorsed for use in other Australian jurisdictions.</p>	<p>Before making a direction under this rule, the Board must, at the applicant's request, consider whether or not to exempt the applicant from satisfying the specified academic qualifications prerequisite or the specified practical legal training prerequisite or both under section 18 of the Uniform Law.</p>	<p>Obligates the Board when asked, to take into account the applicant's skills and experience by applying proposed r 6A prior to formulating a direction.</p>
11(3A)		<p>Before making a direction under this rule, the Board may take into account any other matter the Board considers relevant.</p>	<p>Expresses the Board's power re directions.</p>
11(4)	<p>The Board may give a direction under subrule (1) or (2) in any terms, and subject to any conditions that it thinks appropriate including, without limitation, that the applicant must:</p> <p>(a) take an examination referred to in rule 10 (2), and</p> <p>(b) complete any other requirements directed by the Board, and</p> <p>(c) apply for a compliance certificate within any period determined by the Board.</p>	<p>The Board may give a direction under this rule in any terms, and subject to any conditions that it thinks appropriate including, without limitation, that the applicant must:</p> <p>(a) take an examination referred to in rule 10(2), and</p> <p>(b) complete any other requirements directed by the Board including further academic subjects, examinations or practical legal training, and</p> <p>(c) apply for a compliance certificate within any period determined by the Board.</p>	
11(5)		<p>The Board must provide reasons for giving a direction under this rule if requested to do so by the applicant.</p>	<p>Ameliorates perceptions of a lack of transparency.</p>
11A(1)		<p>For the purposes of section 419(3) of the Uniform Law, this rule applies in addition to Section 20 of the Law.</p>	
11A(2)		<p>The Board must, at the request of a foreign lawyer, consider whether or not to make a recommendation under section 20 of the Uniform Law that the foreign lawyer be admitted subject to conditions of one or more of the kinds specified in section 20(1) of the Uniform Law.</p>	<p>Maximises the use of the conditional admission provisions.</p>

Text of the relevant Admission Rules if 2021 Draft Rule d.20 is made

5 Specified academic qualifications prerequisite

- (1) For the purposes of [section 17\(1\)\(a\) of the Uniform Law](#), subject to these Rules, the specified academic qualifications prerequisite is satisfied by:
 - (a) successfully completing a tertiary academic course in Australia whether or not leading to a degree in law, that—
 - i. includes the equivalent of at least 3 years' full-time study of law, and
 - ii. is accredited by the Board, and
 - iii. the Board determines will provide for a student to acquire and demonstrate appropriate understanding and competence in each element of the academic areas of knowledge set out in [Schedule 1](#), or otherwise determined by the Admissions Committee after consulting each of the Boards, or
 - (b) successfully completing academic qualifications obtained overseas, if the Board has given a direction under rule 11(1)(a) that the qualifications are sufficient, or
 - (c) if the Board has given a direction under rule 11(1)(b) for the person to obtain further academic qualifications—successfully completing further qualifications determined by the Board.
- (2) If an applicant has attained the specified academic qualifications prerequisite referred to in subrule (1) more than 5 years before applying for a compliance certificate, the Board, after assessing the applicant's academic qualifications and any other relevant experience, may require the applicant to:
 - (a) undertake any further academic subjects,
 - (b) pass any further examinations, and
 - (c) apply for a compliance certificate within any period, determined by the Board.

6 Specified practical legal training prerequisite

- (1) For the purposes of [section 17\(1\)\(b\) of the Uniform Law](#), subject to these Rules, the specified practical legal training prerequisite is acquiring and demonstrating an appropriate understanding and competence in each element of the skills, values and practice areas:
 - (a) set out in [Schedule 2](#), or
 - (b) otherwise determined by the Admissions Committee after consulting each of the Boards.
- (2) The requirement may be satisfied by:
 - (a) successfully completing—
 - i. a practical legal training course conducted by a practical legal training provider accredited by the Board, or
 - ii. supervised legal training in a workplace for a period of not less than 12 months, under a training plan approved by the Board, which the Board determines adequately provides for the trainee to satisfy the requirements of subrule (1), or
 - (b) successfully completing practical legal training obtained overseas, if the Board has given a direction under rule 11(2)(a) that the training is sufficient, or
 - (c) if the Board has given a direction under rule 11(2)(b) for the person to obtain further training—successfully completing further training determined by the Board.
- (3) A person is eligible to commence training referred to in subrule (2) in the circumstances set out in [item 4 of Schedule 2](#), or when otherwise determined by the Board.
- (4) If an applicant has completed the specified practical legal training prerequisite referred to in subrule (1) more than 5 years before applying for a compliance certificate, the Board, after assessing the applicant's practical legal training qualifications and any other relevant experience, may require the applicant to:
 - (a) undertake any further practical legal training, and
 - (b) apply for a compliance certificate within any period, determined by the Board.

6A Exemptions from certain prerequisites

- (1) For the purposes of [section 419\(3\) of the Uniform Law](#), this rule applies in addition to [section 18 of the Law](#).
- (2) In considering whether or not to exempt a person from satisfying the specified academic qualifications prerequisite or the specified practical legal training prerequisite or both under section 18 of the Uniform Law, the Board may take into account any matter the Board considers relevant.
- (3) In considering whether or not to exempt a person who is eligible for admission in a foreign jurisdiction, the Board must take into account:
 - (a) for an applicant has worked as a practising lawyer in a foreign jurisdiction for a total of at least 7 years—
 - (i) the extent to which the legal system and regulatory framework for practising law in the foreign jurisdiction are substantially equivalent to those of this jurisdiction, and
 - (ii) the number of years the applicant has practised law, and
 - (iii) the type of legal practice the applicant has engaged in, and
 - (iv) the nature of the applicant's previous work, including the applicant's level of responsibility and experience in holding money on trust, or
 - (b) for any other applicant, the extent to which—
 - (i) the academic qualification in law leading to legal practice in the foreign jurisdiction wholly or partially completed by the applicant is substantially equivalent to the specified academic qualifications prerequisite, and
 - (ii) any practical legal training in the foreign jurisdiction completed by the applicant is substantially equivalent to the specified practical legal training prerequisite.
- (4) For the purposes of subrule (3)(a), time spent working under the supervision of a practising lawyer does not count towards the 7 years of legal practice unless the legal system and regulatory framework of the foreign jurisdiction are substantially equivalent to those of this jurisdiction.
- (5) The Board must provide reasons for refusing to issue an exemption under section 18 of the Uniform Law if requested to do so by the applicant.

11 Directions about qualifications

- (1) A person eligible for admission in a foreign jurisdiction may apply to the Board for a direction about—
 - (a) the sufficiency of the person’s qualifications obtained overseas, and
 - (b) if the person’s qualifications are not sufficient—the additional academic qualifications that must be acquired by the person to meet the specified academic qualifications prerequisite.
- (2) A person who has been admitted in a foreign jurisdiction may apply to the Board for a direction about—
 - (a) the sufficiency of the person’s training obtained overseas, and
 - (b) if the person’s training is not sufficient—the additional understanding and competencies that must be acquired by the person to meet the specified practical legal training prerequisite.
- (3) Before making a direction under this rule, the Board must, at the applicant’s request, consider whether or not to exempt the applicant from satisfying the specified academic qualifications prerequisite or the specified practical legal training prerequisite or both under section 18 of the Uniform Law.
- (3A) Before making a direction under this rule, the Board may take into account any other matter the Board considers relevant.
- (4) The Board may give a direction under this rule in any terms, and subject to any conditions that it thinks appropriate including, without limitation, that the applicant must:
 - (a) take an examination referred to in [rule 10\(2\)](#), and
 - (b) complete any other requirements directed by the Board including further academic subjects, examinations or practical legal training, and
 - (c) apply for a compliance certificate within any period determined by the Board.
- (5) The Board must provide reasons for giving a direction under this rule if requested to do so by the applicant.

11A Request for conditional admission

- (1) For the purposes of [section 419\(3\) of the Uniform Law](#), this rule applies in addition to [Section 20 of the Law](#).
- (2) The Board must, at the request of a foreign lawyer, consider whether or not to make a recommendation under section 20 of the Uniform Law that the foreign lawyer be admitted subject to conditions of one or more of the kinds specified in section 20(1) of the Uniform Law.