

## Considering exemptions from certain prerequisites for lawyers with overseas qualifications or training

### Guideline

1. This guideline is made under s 407 of the Legal Profession Uniform Law (**Uniform Law**), and is issued by the Legal Services Council to designated local regulatory authorities (**DLRAs**<sup>1</sup>) exercising functions under s 18 of the Uniform Law. It applies when the DLRA is considering whether to grant an exemption under s 18 to a lawyer with academic qualifications or practical legal training obtained overseas.
2. This guideline commences on 1 July 2025.
3. This guideline is not exhaustive and DLRAs may continue to take into account guidance provided by the Law Admissions Consultative Committee.

### Exemptions under s 18

4. The DLRA may issue a compliance certificate under s 19(3) of the Uniform Law, including a certificate in which conditions are recommended under s 20(1), if it is satisfied that the person has either:
  - a. satisfied the specified academic qualifications prerequisite and the specified practical legal training prerequisite, or
  - b. been exempted under s 18 of the Uniform Law.

The DLRA must also be satisfied that the person is a fit and proper person to be admitted to the Australian legal profession.

5. Under s 18(1), the DLRA may exempt a person from satisfying the specified academic qualifications prerequisite or the specified practical legal training prerequisite, or both, if the DLRA is satisfied that the person has sufficient legal skills or relevant experience so as to render the person eligible for admission.

<sup>1</sup> The Admission Rules refer to a "Board", which is the DLRA for the purpose of the Uniform Law. This guideline uses the term DLRA.

6. Rule 6A of the Legal Profession Uniform Admission Rules 2015 (**Admission Rules**) applies in addition to s 18.
7. Rule 6A(2) distinguishes between foreign lawyers with more or less than 7 years of experience practising foreign law. However, this does not limit the matters to which the DLRA may have regard, and considerations relevant to those with more than 7 years of experience may also be relevant to those with less experience, and vice-versa.
8. Rule 11 provides for a DLRA to give directions about academic qualifications or practical legal training obtained overseas. When considering whether to grant an exemption under s 18 the DLRA shall take into account any direction given under rule 11 (rule 6A(2)(c)).

### Foreign lawyers with at least 7 years of experience

9. "Foreign lawyer" is defined in s 6 of the Uniform Law as an individual who is properly registered or authorised to engage in legal practice in a foreign country by the foreign registration authority for the country.
10. Rule 6A(2)(a) provides that when considering whether to grant an exemption to a foreign lawyer who has practised foreign law for a total of at least 7 years, the DLRA must have regard to the following:
  - a. the extent to which the legal system and regulatory framework of the relevant foreign country are substantially equivalent to the legal system and regulatory framework of this jurisdiction, and
  - b. the number of years the applicant has practised foreign law, and
  - c. the type of legal practice the applicant has engaged in, and

- d. the nature of the applicant's previous work, including the applicant's level of responsibility.
  11. For the purposes of rule 6A(2)(a), the foreign lawyer must have practised foreign law for a total of at least 7 years. That period may include practice of the law of more than one foreign country in which the foreign lawyer was registered or authorised to practice. Where a foreign lawyer has not practised foreign law continuously for 7 years, it may also include shorter periods of practice aggregated to comprise the total of at least 7 years. If relevant, the DLRA may consider the effect of any significant periods of non-practice.
  12. Time spent working under the supervision of a foreign lawyer to fulfil a requirement for registration or authorisation to engage in legal practice in a foreign country is taken to be time spent practising foreign law if the legal system and regulatory framework of the foreign country are substantially equivalent to the legal system and regulatory framework of this jurisdiction (rule 6A(3)).
  13. "Relevant foreign country" as referred to in rule 6A(2)(a)(i) means a foreign country in which the foreign lawyer is or has been registered or authorised to engage in legal practice (rule 6A(6)). Experience practising foreign law where the person was registered or authorised to do so is to be taken into account even if the person is no longer registered or authorised to practise in that country.
  14. As stated in rule 6A(4), the DLRA may also consider other matters when deciding whether to grant an exemption under s 18. The DLRA is not limited to considering only the matters set out in rule 6A(2)(a). For example, the matters in rule 6A(2)(b) can also be considered in relation to a foreign lawyer who has practised foreign law for at least 7 years. However, the longer the foreign lawyer has spent in practice, and the broader their experience, the less likely it is that their academic qualifications or practical legal training will be significant in making a decision under s 18.
- a. academic qualifications are substantially equivalent to the specified academic qualifications prerequisite, and
  - b. practical legal training is substantially equivalent to the specified practical legal training prerequisite.
16. As stated in rule 6A(4), the DLRA may also consider other matters when deciding whether to grant an exemption under s 18. The DLRA is not limited to considering only the matters set out in rule 6A(2)(b). For example, the matters in rule 6A(2)(a) may also be considered in relation to a foreign lawyer who has practised foreign law for less than 7 years.

### Directions under rule 11

17. Rule 11(1) provides that the following persons may apply to the DLRA for a direction about the sufficiency of qualifications or training obtained overseas:
  - a. a person who has wholly or partially completed the academic requirements for registration or authorisation to engage in legal practice in a foreign country,
  - b. a foreign lawyer.
18. Rule 11(2) provides that the DLRA may give a direction about the following matters:
  - a. whether or not the person's academic qualifications and practical legal training obtained overseas are sufficient to render the person eligible for admission,
  - b. if the person's academic qualifications or practical legal training obtained overseas are not sufficient to render the person eligible for admission—guidance as to additional qualifications or training that the person needs to acquire.
19. A person's academic qualifications and/or practical legal training obtained overseas will be sufficient to render the person eligible for admission if the DLRA is satisfied that the person has sufficient legal skills or relevant experience to be eligible for an exemption under s 18. Rule 11 therefore enables a person to receive guidance in advance as to:
  - a. whether they are likely to be granted an exemption under s 18, and

### Foreign lawyers with less than 7 years of experience

15. Rule 6A(2)(b) provides that when considering whether to grant an exemption to a foreign lawyer who has not practised foreign law for a total of at least 7 years, the DLRA must have regard to the extent to which the foreign lawyer's:

- b. if not, what further academic study and/or practical legal training they will need to complete.
20. The DLRA must take rule 6A into account when giving a direction under rule 11.
21. Rule 6A(2)(c) provides that the DLRA must have regard to any direction given to the person under rule 11 when considering whether to grant an exemption. A rule 11 direction does not fetter the DLRA in making a decision under s 18, and a decision will always be made in the circumstances known to the DLRA at the time. However, if the person complies with a direction given under rule 11, including within the time specified, then that will in general be sufficient to satisfy the DLRA that the person is eligible for an exemption under s 18, unless there has been some significant change in circumstances.

### Conditional admission under s 20

22. A separate guideline has been issued by the Legal Services Council in relation to conditional admission. It provides further guidance to DLRAs on exemptions under s 18 when considering whether to recommend in a compliance certificate that the foreign lawyer be admitted subject to one or more conditions specified under s 20(1) of the Uniform Law.

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- \* The Legal Services Council is empowered to issue guidelines and directions under s 407 of the Legal Profession Uniform Law.