

Heather Moore
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By email: submissions@legalservicescouncil.org.au

Dear Heather,

Consultation paper on the admission of foreign lawyers

Thank you for the opportunity to provide feedback in relation to the proposed rules to amend the Legal Profession Uniform Admission Rules 2015 in relation to the admission of foreign lawyers to the Australian legal profession, and the draft Council guideline on conditional admission of foreign lawyers.

Background

The Law Institute of Victoria (LIV) notes that the Legal Services Council's Admissions Committee has been exploring options to address concerns about barriers to the admission of foreign lawyers.

The LIV is also aware of the involvement of the Law Council of Australia (LCA) in the Legal Services Regulatory Dialogue (Dialogue) established under the Australia-UK Free Trade Agreement (A-UKFTA).

Proposed rule 6A

Rule 6A prescribes mandatory considerations that admitting authorities must take into account when considering whether to grant a foreign lawyer an exemption under section 18 of the Uniform Law as follows:

- for applicants of at least seven years' experience, admitting authorities would be required to take into account specified factors related to an applicant's legal skills and experience, and
- for applicants of less than seven years' experience, admitting authorities would be required to take into account considerations including academic qualifications and practical legal training.

In principle the LIV supports the proposed draft rule as it considers that the proposed considerations are appropriate.

Rule 6A(2) refers to 7 years of legal practice and to a 'foreign country'.

However, the LIV notes that greater clarity could be provided vis a vis the reference to 'foreign country' so as to confirm whether or not an applicant for admission who has practised overseas in multiple jurisdictions for the requisite period will also be eligible under the proposed rule.

It is the view of the LIV that practice in multiple jurisdictions should also be acceptable.

The consultation paper at page 5 notes that the period of seven years has been decided as a result of the need to draw a "*distinction between experienced and inexperienced foreign lawyers, using seven years of legal practice (including any qualifying period of supervision) as the relevant threshold. That threshold has been set in consultation with stakeholders and reflects the point at which a lawyer will represent a low risk to the public from a regulatory perspective and will generally rely less on their undergraduate studies as a resource for legal practice.*"

The LIV has received a copy of the draft submission by Law Firms Australia (LFA).

In their submission, LFA states that '*The experience threshold of seven years' practice should be reduced to five years' practice (including any training contract), as was originally proposed in the Legal Profession Uniform Admission Amendment (Qualifications) Rule 2019.*'

The LIV supports the reduction to 5 years based on member feedback.

It is presumed that the requisite period of experience is intended to mean 'full time or equivalent'. However, for the avoidance of doubt, the LIV recommends that these words be included so as to avoid any potential confusion where a foreign lawyer has worked part time over this period.

Substituted rule 11

Draft rule 11(2)(b) provides:

(2) The Board 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.

The LIV supports the proposal that the Board may give guidance as to any additional qualifications or training that the foreign lawyer may need to acquire.

The LIV is well placed to assist with the training of foreign lawyers and would welcome the opportunity to discuss with you how we may be able to assist in the development of any training programs.

Draft guideline

The LIV supports the issue of the guideline but has no specific comments in relation to the content.

If you wish to discuss the LIV response, please contact [REDACTED],

Yours sincerely,

[REDACTED]

Adam Awty
Chief Executive