

# NEW ZEALAND COUNCIL OF LEGAL EDUCATION

## PROFESSIONAL EXAMINATIONS IN LAW REGULATIONS 2008

### Made pursuant to section 278 of the Lawyers and Conveyancers Act 2006

#### INTRODUCTION

##### 1. Title, Commencement, Confirmation, and Definitions -

- (1) These regulations may be cited as the Professional Examinations in Law Regulations 2008.
- (2) These regulations shall come into force on the first day of August 2008.
- (3) In these Regulations, unless the context otherwise requires -

“Chairperson” means the Chairperson of the Council;

“Chief Executive” means the Chief Executive of the Council;

“Council” means the Council of Legal Education;

“Qualification for Admission” includes-

- (a) an approved Bachelor of Laws or (Bachelor of Laws with Honours) degree from a University in New Zealand;
- (b) a subject of examination;
- (c) a discrete University level course in Legal Ethics;
- (d) the Professional Legal Studies Course;
- (e) a determination issued to an overseas law graduate or overseas lawyer under these or any corresponding previous Regulations;
- (f) a degree subject, a Legal Ethics course, a practical legal training course or an English language requirement prescribed by the Council pursuant to such a determination;

“University or University in New Zealand” means a University as defined in section 162 of the Education Act 1989.

#### ADMISSION REQUIREMENTS

##### 2. Requirements for Admission -

Except as otherwise provided in these regulations, a candidate for admission as a barrister and solicitor shall -

- (1) Pass or be credited with a pass, under the conditions contained in these regulations, in the subjects of examination under regulation 3 of these regulations; or
- (2) Pass or be credited with a pass, under the conditions contained in these regulations, in all requirements imposed on an applicant under regulation 8 of these regulations; or
- (3) Pass or be credited with a pass, under the conditions contained in these regulations, in all requirements imposed on an applicant under regulation 9 of these regulations.

##### 3. Subjects -

- (1) The subjects of examination shall be -
  - (a) courses prescribed for and satisfying all the requirements for admission to the degree of Bachelor of Laws (or Bachelor of Laws with Honours) at a University in New Zealand at which the candidate is enrolled provided that -
    - (i) the degree course has been approved as a whole for these purposes by the Council and any conditions laid down by the Council in giving its approval have been met; and

- (ii) any amendment to the degree course has been approved by the Council or by the Chairperson on its behalf.
  - (b) the following subjects (which may be included in the subjects taken for admission to the degree):
    - The Legal System
    - The Law of Contracts
    - The Law of Torts
    - Criminal Law
    - Public Law
    - Property Law
- provided that -
- (i) the requirement in respect of any such subject may be satisfied by the completion of two or more subjects as part of the degree course of the candidate where the Council is satisfied that the course content of that subject is spread over those two or more subjects at the University at which the candidate is enrolled; and
  - (ii) the subjects of Land Law and Equity and the Law of Succession shall be treated as the equivalent of Property Law.
- (c) The Professional Legal Studies Course prescribed under these regulations.
  - (d) A course in legal ethics taught at a Law School University in New Zealand, the examination for which shall be moderated in the manner specified in regulation 6(3) of these regulations.
- (2)
    - (a) The prescription for the subjects in regulation 3(1)(b) of these regulations shall be as defined by the Council and set out in the First Schedule to these regulations.
    - (b) The prescription for the Professional Legal Studies Course shall be as defined by the Council and set out in the Second Schedule to these regulations.
    - (c) The prescription for the legal ethics course shall be as defined by the Council and set out in the Third Schedule to these regulations.

#### **4. Approval of Personal Programme -**

The annual programme of study of a candidate for examination shall require the approval of the Dean of the Faculty of Law of the University at which the candidate is enrolled.

#### **5. Examination Entry -**

Every candidate for examination under these regulations shall enter for examination in accordance with the requirements of the University at which the candidate is enrolled.

#### **6. Examinations -**

- (1) This regulation shall apply to the subjects in regulation 3(1)(b) of these regulations. For the purposes of this regulation the expression "examination" includes internal assessment of the candidate's work in each subject conducted by the University at which the candidate is enrolled. The provisions of subclauses (3), (4), (5) and (6) of this regulation shall not apply to any such internal assessment.

- (2) A candidate for admission as a barrister and solicitor who passes or is credited with a pass in any subject to which this regulation applies at an examination conducted by the University at which the candidate is enrolled shall be credited with a pass in that subject under these regulations if the examination is conducted in accordance with the provisions of subclauses (3), (4), (5) and (6) of this regulation.
- (3) In respect of each subject (other than the Legal System) the examination paper shall have been prepared by a University teacher and settled by that teacher and a moderator appointed by the Council after consultation with the New Zealand Law Society and the Deans of the Faculties of Law.
- (4) In respect of each subject the scripts for the said examination shall have been marked by a University teacher and assessed by a teacher from another University appointed by the Council of the University that conducted the examination on the recommendation of the Faculty of Law of that University.
- (5) Any disagreement between teacher and moderator as to the content of any examination paper shall be referred for final decision to a person appointed by the Chairperson of the Council after consultation with the Vice-Chancellor of the University holding the examination.
- (6) Any disagreement between teacher and assessor as to the marking of any script for any subject shall be referred for final decision to a person appointed by the Vice-Chancellor of the University holding the examination.

## **7. Pass in Professional Legal Studies Course -**

A candidate for examination in the Professional Legal Studies Course shall be credited with a pass if the Director of the accredited provider of the Professional Legal Studies Course, or the Chief Executive, issues the candidate with a certificate to the effect that the candidate has passed or should be credited with a pass in the Course.

## **OVERSEAS LAW GRADUATES**

### **8. Ad Eundem Credits for Overseas Law Qualifications -**

- (1) Any person who has been admitted to the degree of Bachelor of Laws or an equivalent qualification of a University or other institution other than a University in New Zealand but who has not been admitted as a barrister, solicitor, advocate, or attorney by a superior court in any other country may apply to the Council for a determination that the qualification to which the applicant has been admitted is in full or in part the equivalent of a degree of Bachelor of Laws of a University in New Zealand for the purposes of these regulations.
- (2) Every application shall be made in writing to the Council and shall be accompanied by -
  - (a) Documentary evidence of the applicant's educational standing and attainment;
  - (b) The applicant's curriculum vitae, including an outline of the applicant's practical legal training or experience;
  - (c) A statutory declaration that the applicant is the person named in the documents submitted and that the documents are complete and correct;
  - (d) The prescribed fee.
- (3) After considering an application under this regulation the Council, or a committee acting on behalf of the Council -
  - (a) may determine that the qualification to which the applicant has been admitted is the equivalent of a degree of Bachelor of Laws of a University in New Zealand for the

purposes of these regulations; or may determine what further courses of study and examinations in general knowledge and law and legal ethics it requires to be taken; and

- (b) may in its discretion require the applicant to pass a Part or Parts of the New Zealand Law and Practice Examination; and
- (c) may require the applicant to pass an approved test, or a series of approved tests, to establish that the applicant can communicate effectively in both spoken and written English; and
- (d) may require the applicant to complete the Professional Legal Studies Course prescribed by regulation 3(1)(c) of these regulations as a condition of admission as a barrister and solicitor.

## **OVERSEAS LAWYERS**

### **9. Ad Eundem Credits for Overseas Lawyers -**

- (1) Any person who has been admitted as a barrister, solicitor, advocate, or attorney by a superior court in any country may apply to the Council for a determination as to what, if any further requirements shall be required of that person as a condition of admission in New Zealand.
- (2) Every application shall be made in writing and shall be accompanied by -
  - (a) Documentary evidence of the applicant's educational standing and professional experience;
  - (b) The applicant's curriculum vitae, including an outline of the applicant's professional legal training and experience;
  - (c) A statutory declaration that the applicant is the person named in the documents submitted and that the documents are complete and correct;
  - (d) The prescribed fee.
- (3) All applications shall be considered in consultation with the New Zealand Law Society.
- (4) In considering any application under this regulation the Council, or a committee acting on behalf of the Council -
  - (a) Shall take into account the degree of Bachelor of Laws or the equivalent qualification to which the applicant has been admitted; the nature and extent of the professional training and of the professional experience of the applicant; and the nature and extent of the applicant's knowledge of and experience in the use of the English language, and
  - (b) May -
    - (i) determine what, if any, further courses of study and examinations in general knowledge and law and legal ethics it requires to be taken; and
    - (ii) require the applicant to pass a Part or Parts of the New Zealand Law and Practice Examination; and
    - (iii) require the applicant to complete the Professional Legal Studies Course prescribed by regulation 3(1)(c) of these regulations; and
    - (iv) require the applicant to pass an approved test, or series of approved tests, to establish that the applicant can communicate effectively in both spoken and written English.

- (5) The preliminary determination of the Council, or a committee acting on behalf of the Council, shall be communicated to the New Zealand Law Society, which shall provide the Council with its written comments. After considering these comments the Council shall finally determine the application.

#### **10. Time Limitations -**

- (1) The Council may, in its discretion, assess any qualification for admission which is 10 or more years old at the time when a candidate for admission applies for a completion certificate.
- (2) The 10 year period shall start to run from the date on which the candidate passed, or otherwise achieved, the relevant qualification.
- (3) After assessing the candidate's qualification for admission, the Council may, in its discretion, impose further study or training requirements on the candidate, including –
  - (a) requiring the candidate to pass further degree level courses;
  - (b) requiring the candidate to pass an examination in the law and practice of law in New Zealand;
  - (c) requiring the candidate to pass a discrete University level course in Legal Ethics;
  - (d) requiring the applicant to undertake the Professional Legal Studies Course.
- (4) The fee for the assessment under this regulation shall be as prescribed by the Council.

### **COMPLETION CERTIFICATES**

#### **11. Completion Certificates: Holders of New Zealand Law Degrees -**

- (1) Upon completion of the requirements prescribed by the Council, a candidate for admission who holds a New Zealand law degree may apply to the Chief Executive for a completion certificate.
- (2) A candidate for admission must include with his or her application under this regulation -
  - (a) A certificate or transcript from the university where the student studied for the LLB, verifying that the student is eligible for, or has obtained, an LLB (this phrase covers Honours students who would be eligible for the LLB having completed the LLB component).
  - (b) A certificate or transcript from a university verifying that the student has passed Legal Ethics (this may be included in the certificate or transcript in (a) above).
  - (c) A certificate of completion issued by the Institute of Professional Legal Studies, or the College of Law New Zealand verifying completion of the Professional Legal Studies course.
  - (d) The prescribed fee, if any.
- (3) A completion certificate issued under this regulation shall remain valid for a period of three calendar years from the date of issue.
- (4) After the expiration of the three calendar year period, the Council may, in its discretion, assess the candidate's qualification for admission, and may, in its discretion, apply the provisions of regulation 10(3) and (4) of these Regulations.

## **12. Completion Certificates: Holders of Overseas Law Qualifications and Overseas Lawyers-**

- (1) Upon completion of the requirements prescribed by the Council, a candidate for admission who holds an overseas law qualification, or is an overseas lawyer, may apply to the Chief Executive for a completion certificate.
- (2) A candidate for admission must include with his or her application under this regulation -
  - (a) Original or certified copies of documentary evidence showing that the candidate has satisfied all of the requirements prescribed by the Council in its determination in respect of the candidate.
  - (b) The prescribed fee, if any.
- (3) A completion certificate issued under this regulation shall remain valid for a period of three calendar years from the date of issue.
- (4) After the expiration of the three calendar year period, the Council may, in its discretion, assess the candidate's qualification for admission, and may, in its discretion, apply the provisions of regulation 10(3) and (4) of these Regulations.

## **GENERAL**

### **13. Hardship –**

- (1) Any person may submit an application, accompanied by the prescribed fee, to the Chief Executive for relief from hardship on the grounds set out in clause (2) of this Regulation.
- (2) In any case where it is shown to the satisfaction of the Chairperson that the repeal of the Professional Examinations in Law Regulations 1987 and the enactment of these Regulations in their place, or any alteration or amendment to these or any other regulations of the Council, involving a change in any course of study, or in examination requirements, or any other circumstances beyond the control of the student, has caused or may cause hardship to a candidate, the Chairperson may make such provision as may be appropriate for the relief of such hardship.

### **14. Revocation -**

The Professional Examinations in Law Regulations 1987 are revoked.

**Chief Executive  
Council of Legal Education  
September 2007**

**Approved by the Minister of Justice in October 2007**

**FIRST SCHEDULE**  
**Prescription of Subjects**  
**(see Regulation 3(2)(a))**

**THE LEGAL SYSTEM (One paper)**

An introduction to the New Zealand legal system. Legal reasoning and the judicial process, including selected problems in statutory interpretation. Selected legal institutions in England and New Zealand. Selected legal concepts. This subject may include studies in the history of law and legal institutions in England and New Zealand.

OR

An historical introduction to, and a descriptive outline of, the legal systems in England and New Zealand, including the structure of government, civil and criminal proceedings, the sources of law and the main divisions of substantive law. Legal reasoning and the judicial process, including an introduction of statutory interpretation. An elementary treatment of legal concepts.

**THE LAW OF CONTRACTS (One paper)**

The general principles of the law of contract and agency.

**THE LAW OF TORTS (One paper)**

General principles of civil liability. The law as to the various kinds of torts. The law relating to compensation for personal injury by accident in New Zealand.

**CRIMINAL LAW (One paper)**

The general principles of criminal liability. The law relating to indictable and other selected offences chargeable under New Zealand law. Procedure on indictment and summary procedure (excluding Evidence).

**PUBLIC LAW (One paper)**

The principles and working of the constitution, the institutions of government, the exercise of public power and relations between the citizen and the state. Controls on the exercise of public power, including an introduction to judicial review.

**PROPERTY LAW (One paper)**

An introduction to the law relating to property, both legal and equitable.

N.B. Regulation 3(1)(b)(ii) provides for the subjects Land Law and Equity and the Law of Succession to be treated as the equivalent of Property Law. The prescriptions for these courses are:

**LAND LAW (One paper)**

The history and principles of Land Law

**EQUITY AND THE LAW OF SUCCESSION (One paper)**

The principles of equity with particular reference to the law of trusts. The principles of the law of succession and of the administration of estates. Choses in action and the assignment thereof.

**SECOND SCHEDULE**  
**Professional Legal Studies Course**  
**(See Regulation 3(2)(b) and the Professional Legal Studies Course and**  
**Assessment Standards Regulations 2002)**

The Professional Legal Studies Course will be a national course of 13 weeks full-time duration or the equivalent length for other methods of delivery as specified in regulation 3.1 and 3.2 of the Professional Legal Studies Course and Assessment Standards Regulations 2002.

The Professional Legal Studies Course will involve training students in professional conduct and in the following skills:

1. Interviewing
2. Advising
3. Fact investigation and analysis
4. Writing
5. Drafting
6. Negotiation
7. Mediation
8. Advocacy
9. Problem solving
10. Practical legal research and analysis
11. Office and personal management

The skills will be taught in the context of specific legal transactions that are commonly required to be completed by newly-admitted lawyers. Such transactions may include criminal and civil proceedings in the District Court, matrimonial proceedings involving custody, access or property division, buying and selling residential or farm property, the purchase and sale of a business, or drawing a will.

Outcome specifications, assessments and standards for assessment are prescribed by the Council of Legal Education in the Professional Legal Studies Course and Assessment Standards Regulations 2002 and the Professional Legal Studies Course Regulations 2004.

The conduct of the course including course materials, the transactions to be included, instructional and student activities will be regularly defined from time to time by the accredited providers of the Professional Legal Studies Course, who are accredited and periodically monitored by the Council of Legal Education under the Professional Legal Studies Course Accreditation Regulations 2006.

**THIRD SCHEDULE**  
**Legal Ethics Prescription**  
**(see Regulation 3(2)(c))**

- 1 An introduction to ethical analysis including an examination of various theories of ethics.
- 2 The applicability of ethical analysis to legal practice.
- 3 The concept of a profession and the ethical and professional duties of practitioners (which will include, among other topics, conflicts of interest, confidentiality, duties to the Court, duties of loyalty and fidelity).
- 4 The wider responsibilities of lawyers in the community.

**Explanatory Notes to Regulations**

**These Regulations provide for the academic and practical legal training requirements for those persons wishing to be admitted to the profession in New Zealand.**

**All queries relating to these Regulations must be referred to the Chief Executive of the Council of Legal Education, PO Box 5671, Wellington, New Zealand.**