

## NOTES: Application for grant or renewal of registration as foreign lawyer - Section 2.8.19 *Legal Profession Act 2004*

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### INTRODUCTION

It is an offence under section 2.8.4(1) of the *Legal Profession Act 2004* (the Act) for a person to practise foreign law in Victoria unless the person is:

- (a) an Australian-registered foreign lawyer; or
- (b) an Australian legal practitioner

There are some exceptions to this prohibition set out in section 2.8.4(2).

A foreign lawyer must be registered with the Board **before** engaging in the practise of foreign law in Victoria. The attached form is the approved form of application pursuant to section 2.8.19 of the Act.

### STATUS OF FOREIGN PRACTITIONERS

An Australian-registered foreign lawyer may only provide the legal services in Victoria set out in section 2.8.6 of the Act.

### NOTES FOR COMPLETION OF THIS FORM

#### 1. Address for Service

This must be a street address and cannot be a PO Box or DX number.

#### 2. Disciplinary proceedings

This question asks if you are the subject of any disciplinary proceedings in Australia or a foreign country in relation to your legal practice. This includes any preliminary investigations or action that might lead to disciplinary proceedings.

#### 3. Prohibition or restriction on practice

This question asks if you are otherwise prohibited from engaging in legal practice or restricted from engaging in legal practice as a result of criminal, civil or disciplinary proceedings. This includes whether you are bound by any undertakings or special conditions related to engaging in legal practice.

#### 4. Conditions or undertakings

This question asks you to specify any conditions imposed as a restriction on your legal practice or any undertaking given by you restricting your legal practice. You must disclose all restrictions, even if they are routine, statutory or voluntary (eg. relating to practising as an employee rather than a principal, not receiving trust money, supervised legal practice or continuing professional development).

#### 5. Intending to receive trust moneys

If the application is for the grant or renewal of registration certificate with authorisation to hold trust money, you must provide evidence that you have completed a course of study about trust accounts approved by the Board for the purposes of Part 2.4 Division 4 of the Act prior to receiving a registration certificate.

Before receiving any trust money, you will be required to comply with the requirements of Part 3.3 of the Act: In particular, this will require that you open a general trust account in an approved ADI (approved deposit taking institution) and appoint an approved external examiner. There are a number of requirements set out in the Act and the regulations regarding how trust money is to be dealt with and how trust accounts are to be maintained and inspected.

## 6. Statement from current and former registration authorities

The application must be accompanied by a current, original document (or certified copy) from the home registration authority in any country where you are **currently** registered to engage in legal practice, that:

- verifies your educational and professional qualifications (eg. tertiary degree and admission to practice) or, if it is not in a position to do so, states that fact
- verifies that you are currently registered to engage in legal practice in the foreign country and specifies the date period covered by that registration
- states whether you are subject to any special conditions or undertakings concerning engaging in legal practice
- describes anything done by you in engaging in legal practice in the foreign country, of which the authority is aware, that has had or is likely to have an adverse effect on your professional standing within the legal profession in that country.

If the current foreign registration authority is unable to verify your educational and professional qualifications, the application form must be accompanied by a certified copy of the relevant qualifications.

The application must be accompanied by a current, original document (or certified copy) from any former home registration authority in any country where you were **formerly** registered to engage in legal practice, that:

- specifies the date period when you were registered
- describes anything done by you in engaging in legal practice in the foreign country, of which the authority is aware, that has had or is likely to have an adverse effect on your professional standing within the legal profession in that country.

## 7. Professional Indemnity Insurance

Australian-registered foreign lawyers must maintain professional indemnity insurance on terms and conditions approved by the Board (as required by section 3.5.3 of the Act). The Board will generally require the terms and conditions to be the same or materially the same as the Legal Practitioners Liability Committee policy approved by the Board, from time to time, for local legal practitioners.

The application form must be accompanied by an original document (or certified copy) from the insurer that:

- verifies that the applicant currently holds professional indemnity insurance that covers the applicant for the practice of foreign law in Victoria pursuant to the Act
- specifies the date period covered by the policy
- specifies the sum insured for each claim under the policy.

If the insurer is not the Legal Practitioners Liability Committee, the application form must also be accompanied by a copy of the terms and conditions of the policy and product disclosure statement (if applicable).

## 8. English translations

If any accompanying document is not in English, it must be accompanied by a translation in English that is authenticated or certified to the satisfaction of the Board.

## 9. Show cause event (Part 2.8, Division 7 of the Act)

If a show cause event occurred in relation to you at any time after you first become registered as a lawyer in your home jurisdiction, you must provide a written statement to the Board about the show cause event and explain why, despite the show cause event, you consider yourself to be a fit and proper person to be a locally registered foreign lawyer.

*'Show cause event'*, in relation to a person, means:

- (a) his or her becoming bankrupt or being served with notice of a creditor's petition presented to the Court under section 43 of the Bankruptcy Act 1966 of the Commonwealth; or
- (b) his or her presentation (as a debtor) of a declaration to the Official Receiver under section 54A of the Bankruptcy Act 1966 of the Commonwealth of his or her intention to present a debtor's petition or his or her presentation (as a debtor) of such a petition under section 55 of that Act; or

- (c) his or her applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounding with his or her creditors or making an assignment of his or her remuneration for their benefit; or
- (d) his or her being found guilty of a serious offence or a tax offence, whether or not—
  - (i) the offence was committed in or outside this jurisdiction; or
  - (ii) the offence was committed while the person was engaging in legal practice as an Australian legal practitioner or was practising foreign law as an Australian-registered foreign lawyer, as the case requires; or
  - (iii) other persons are prohibited from disclosing the identity of the offender.

'*Serious offence*' means an offence whether committed in or outside this jurisdiction that is:

- (a) an indictable offence against a law of the Commonwealth or any jurisdiction (whether or not the offence is or may be dealt with summarily); or
- (b) an offence against the law of another jurisdiction that would be an indictable offence against a law of this jurisdiction if committed in this jurisdiction (whether or not the offence could be dealt with summarily if committed in this jurisdiction); or
- (c) an offence against the law of a foreign country that would be an indictable offence against a law of the Commonwealth or this jurisdiction if committed in this jurisdiction (whether or not the offence could be dealt with summarily if committed in this jurisdiction);

'*Tax offence*' means an offence under the *Taxation Administration Act 1953* of the Commonwealth, whether committed in or outside this jurisdiction;

## **10. Fees**

The application must be accompanied by the registration fee. The registration fee is the same amount as the fee prescribed by the Board, from time to time, for a local practising certificate (either with or without authorisation to receive trust money). The registration fee will be pro-rated on a quarterly basis for part year registration. The current fees for local practising certificates may be found on the Board's website [www.lsb.vic.gov.au](http://www.lsb.vic.gov.au).

Pursuant to section 2.8.19(4) of the Act, the Board may also require the applicant to pay any reasonable costs and expenses incurred by the Board in considering the application, including (for example) the cost of making inquiries and obtaining information about whether the applicant meets the criteria for registration.

## **11. Enquiries with other registration authorities**

The Board may make enquiries of and exchange information with any foreign registration authority it considers appropriate regarding your activities in engaging in legal practice in that place or otherwise regarding matters relevant to your application.

## **12. Certification of copy documents**

If you are required to provide a certified copy of any document, the person certifying the copy must sight the original document and be a person authorised to witness statutory declaration under Victorian law or a registered legal practitioner pursuant to the law of another jurisdiction or a registered public notary pursuant to the law of another jurisdiction.

## **13. Statutory declaration**

The statutory declaration must be signed in the presence of a person authorised to witness statutory declarations under s.107A *Evidence Act 1958* (Victoria).

## Application for grant or renewal of registration as foreign lawyer

### Section 2.8.19 *Legal Profession Act 2004*

#### Applicant's details

Surname	First Name
Middle initials	Title (Ms, Mr, Dr etc.)
Date of Birth        /        /	

#### Address for service of notices and other documents (See note 1)

Building, Level	
Street	
Suburb/Town	
State	Postcode
Business Telephone (        )	Business Facsimile (        )
Email Address	

Are you an Australian legal practitioner?  Yes  No

I intend to practise the law of _____ (name of country)		
<input type="checkbox"/> As a partner/director	<input type="checkbox"/> As an employee	<input type="checkbox"/> On my own account (ie. sole practitioner)
I intend to commence practising foreign law in Victoria on:        /        / (commencement date)		

#### Business or employer name and address

Name	
Building, Level	
Street	
Suburb/Town	
State	Postcode

#### Applicant's educational qualifications

Name of qualification:	Name of qualification:
Name of tertiary institution:	Name of tertiary institution:
Year completed:	Year completed:

#### Applicant's admission and registration details

Date and place of admission:        /        /	
Place in which you are registered to engage in legal practice:* (country)	
Registration number in that place:	Registration valid to        /        / (date)

\*Please attach a list if you are registered in more than one jurisdiction

The name and address of the registration authority in that place:\*

Name		
Building, Level		
Street		
Town/City		
State/Province	Postcode	Country

\*Please attach a list if you are registered in more than one jurisdiction

Are you currently the subject of disciplinary action in any country relating to your legal practice? (See note 2)

Yes (supply details below)  No


Are you a party to a criminal or civil proceeding in any country that may result in future disciplinary action against you?

Yes (supply details below)  No


Have you been found guilty of a criminal or civil offence in any country?

Yes (supply details below)  No

Nature of offence
Date of offence
Sentence received

Is your registration to engage in legal practice in any country cancelled or currently suspended as a result of criminal, civil or disciplinary action?

Yes (supply details below)  No


Are you otherwise prohibited or restricted from engaging in legal practice in any country as a result of criminal, civil or disciplinary proceedings in any country? (See note 3)

Yes (supply details below)  No


Specify any conditions imposed as a restriction on your legal practice or any undertaking given by you restricting your legal practice (See note 4)


Has your registration in any other profession been cancelled, suspended or otherwise restricted as a result of criminal, civil or disciplinary action?

Yes (supply details below)  No


I wish to be authorised to receive trust money

Yes

No

Trust accounts course details (see note 5)

Name of course
Name of training provider
Date completed

The following **MUST** be enclosed with this application (please tick to confirm which documents are attached)

- Original or (certified copy) document from current and former registration authorities (see note 6)
- Certified copy of education and professional qualifications, if not verified by registration authority (see note 6)
- Original or (certified copy) document from professional indemnity insurer (see note 7)
- Copy of the terms and conditions of the professional indemnity insurance and PDS, if the insurer is not the LPLC (see note 7)
- Translation of any document not in English (see note 8)
- Show cause statement, if a relevant event has occurred (see note 9)
- Registration fee for certificate **with** authorisation to receive trust (see note 10) **or**
- Registration fee for certificate **without** authorisation to receive trust (see note 10)
- Statutory declaration

### Consent

I consent to the making of inquiries of and the exchange of information with any foreign registration authority regarding my activities as a legal practitioner (see note 11).

Signature	Date	/	/
Please print name			

### Privacy

The Legal Services Board complies with the privacy principles set out in the *Information Privacy Act 2000*. All personal information you provide will be handled in accordance with these principles. The collection of the information on this form is required by the *Legal Profession Act 2004*. Information held by the Legal Services Board may be disclosed to various organisations, including the Victorian Civil and Administrative Tribunal, the Law Institute of Victoria Ltd, Victorian Bar Inc., Victoria Police and corresponding interstate or overseas authorities in order to carry out its duties under the *Legal Profession Act 2004*.

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## STATUTORY DECLARATION

I declare that:

1. I have read this application form.
2. No show cause event has occurred in relation to me since I first became registered to engage in legal practice in my home jurisdiction or if a show cause event has occurred, I attach a written statement regarding the event in accordance with the requirements of the *Legal Profession Act 2004*.
3. The information provided in this application form (and any attached written statement) is true and correct and I make it in the belief that a person making a false declaration is liable to the penalties of perjury.
4. I undertake to notify the Legal Services Board within 14 days if:
  - I become the subject of disciplinary proceedings in Australia or a foreign country
  - my registration to engage in legal practice in any jurisdiction in which I was entitled to practise is cancelled or suspended.

Declared at \_\_\_\_\_ in the state / province of \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Signature

Before Me:

*[to be signed in the presence of a person authorised to witness statutory declarations under s.107A Evidence Act 1958]*