

NORTHERN TERRITORY OF AUSTRALIA

LEGAL PROFESSION AMENDMENT REGULATIONS 2012

Subordinate Legislation No. 30 of 2012

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 30 of 2012*

Legal Profession Amendment Regulations 2012

I, Sally Gordon Thomas, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Legal Profession Act*.

Dated 31 July 2012

S. G. THOMAS
Administrator

By Her Honour's Command

P. R. HENDERSON
Chief Minister
acting for
Minister for Justice and Attorney-General

* Notified in the *Northern Territory Government Gazette* on 3 August 2012.

1 Citation

These Regulations may be cited as the *Legal Profession Amendment Regulations 2012*.

2 Commencement

These Regulations commence on 1 October 2012.

3 Regulations amended

These Regulations amend the *Legal Profession Regulations*.

4 Schedule 2 replaced

Schedule 2

repeal, insert

Schedule 2 Continuing professional development scheme

regulation 11

Part 1 Interpretation

1 Definitions

In this Schedule:

attend, a seminar, includes chair the seminar but does not include giving a presentation at the seminar.

claim, for a CPD point, means count the point towards satisfying a legal practitioner's CPD obligation.

core competencies means:

- (a) competency in professional ethics and responsibility (including, for example, conflicts of interest and lawyers duties to court); and
- (b) competency in practice management and business skills (including, for example, risk management and business planning); and
- (c) competency in professional skills in legal practice (including, for example, plain English drafting and communication and interpersonal skills).

CPD means continuing professional development.

CPD activity, see clause 2.

CPD obligation means a legal practitioner's obligation under clause 4 to accrue CPD points for a CPD year.

CPD points, see clause 3.

CPD year means the period starting on 1 April in a year and ending on 31 March in the next year.

seminar includes a workshop, conference and discussion group.

substantive law competency means competency in substantive law, including, for example:

- (a) an area of law prescribed by the admission rules for courses leading to a law degree; and
- (b) statute law and common law.

Part 2 CPD scheme

Division 1 Basic concepts about CPD activities and CPD points

2 CPD activity

(1) A **CPD activity** is:

- (a) preparing a presentation for giving (including by videoconference) at a seminar; or
- (b) giving (including by videoconference) a presentation at a seminar; or
- (c) attending (including by videoconference) a seminar or multimedia or website based program conducted by a person who is qualified by practical or academic experience in the subject covered; or
- (d) private study involving the use of audio or video material specifically aimed at increasing or updating the substantive law or core competencies of legal practitioners; or
- (e) preparing or giving (including by videoconference) a lecture:
 - (i) on a subject for a Graduate Diploma in Legal Practice, Bachelor of Laws or Master of Laws; or

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- (ii) on a subject for another university course that is covered in a course mentioned in subparagraph (i); or
 - (f) writing an article that is published in a legal publication, or a legal article that is published in a non-legal publication, or refereeing or structural editing of such a published article; or
 - (g) participating in a committee; or
 - (h) completing a specialist accreditation examination approved by the Law Society; or
 - (i) attending lectures or writing assignments or a thesis as part of post-graduate studies.
- (2) A CPD activity must:
- (a) be of significant intellectual or practical content; and
 - (b) deal primarily with matters related to the practice of law; and
 - (c) be relevant to the practitioner's immediate or long-term professional development needs.
- (3) Private study is not a CPD activity unless it is covered by subclause (1)(d).
- (4) Engaging in legal practice is not a CPD activity.

3 CPD points

A legal practitioner accrues points (**CPD points**) for participating in CPD activities.

Division 2 Basic concepts about CPD obligation

4 CPD obligation

- (1) This clause applies subject to clause 5.
- (2) For each CPD year a legal practitioner engages in legal practice, the practitioner must accrue 10 CPD points, of which at least 1 CPD point must be accrued in:
 - (a) each of the 3 core competencies; and
 - (b) a substantive law competency.

Note for subclause (2)

Under clause 6, CPD points accrued within 3 months before and after a CPD year may be claimed for that year.

5 Starting legal practice during CPD year

- (1) This clause applies to a legal practitioner who:
- (a) is not engaging in legal practice on 1 April of a CPD year; but
 - (b) starts engaging in legal practice later in that CPD year.
- (2) If the legal practitioner starts engaging in legal practice in a month of the CPD year mentioned in the Table below, the practitioner must, for that CPD year, accrue the number of CPD points specified opposite, of which at least 1 CPD point must be accrued in:
- (a) the number of core competencies specified opposite; and
 - (b) a substantive law competency.

Month	CPD points required	Core competencies
April	10	3
May	9	3
June	8	3
July	7	2
August	6	2
September	5	2
October	4	1
November	3	1
December	2	1
January	1	0

- (3) If the legal practitioner starts engaging in legal practice in February or March of the CPD year, the practitioner is not required to comply with the practitioner's CPD obligation for that CPD year.

Division 3 Basic concepts about accruing and claiming CPD points

6 Claiming CPD points for CPD year

- (1) A legal practitioner who accrues CPD points for participating in a CPD activity within 3 months before the start of a CPD year, or within 3 months after the end of that CPD year, may claim the points for that CPD year.
- (2) However, the legal practitioner may claim CPD points accrued for the activity for only 1 CPD year.

7 Fraction of CPD point

The only fraction of a CPD point that may be claimed is 0.5 point.

Division 4 Accruing and claiming CPD points for CPD activities

8 Preparing or giving presentation at seminar

- (1) For preparing or giving a presentation at a seminar, 0.5 CPD point accrues for each 30 minutes of preparing or giving the presentation.
- (2) However, no more than 5 CPD points may be claimed for preparing and giving the presentation.
- (3) In addition, if the presentation is repeated in the same CPD year, CPD points may be claimed only once.
- (4) Also, a legal practitioner cannot claim CPD points for preparing or giving a presentation that covers substantially the same matter as was covered by any of the following for which the practitioner has claimed CPD points (whether in the same or an earlier CPD year):
 - (a) a lecture;
 - (b) a published article;
 - (c) an assignment or thesis written as part of post-graduate studies.

9 Attending seminar or multimedia or website based program

For attending a seminar or multimedia or website based program, 0.5 CPD point accrues for each 30 minutes of attendance.

10 Private study – audio and video material

- (1) For private study involving the use of audio or video material, 0.5 CPD point accrues for each 30 minutes of study.
- (2) However, no more than 5 CPD points may be claimed for private study in a CPD year.

11 Preparing or giving lecture

- (1) For preparing or giving a lecture, 0.5 CPD point accrues for each 30 minutes of preparing or giving the lecture.
- (2) However, no more than 5 CPD points may be claimed for preparing and giving the lecture.
- (3) In addition, if the lecture is repeated in the same CPD year, CPD points may be claimed only once.
- (4) Also, a legal practitioner cannot claim CPD points for preparing or giving a lecture that covers substantially the same matter as was covered by any of the following for which the practitioner has claimed CPD points (whether in the same or an earlier CPD year):
 - (a) a presentation given at a seminar;
 - (b) a published article;
 - (c) an assignment or thesis written as part of post-graduate studies.

12 Published article

- (1) For writing a published article, 0.5 CPD point accrues for each 500 words of the article.
- (2) However, no more than 5 CPD points may be claimed for writing published articles in a CPD year.
- (3) Also, a legal practitioner cannot claim CPD points for writing a published article that covers substantially the same matter as was covered by any of the following for which the practitioner has claimed CPD points (whether in the same or an earlier CPD year):
 - (a) a presentation given at a seminar;
 - (b) a lecture;
 - (c) an assignment or thesis written as part of post-graduate studies.

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- (4) For refereeing or structural editing of a published article, 0.5 CPD point accrues for each 500 words of the article.
 - (5) However, no more than 5 CPD points may be claimed for refereeing or structural editing in a CPD year.

13 Participating in committee

- (1) For participating in a committee, 0.5 CPD point accrues for each 60 minutes of meeting attendance or other work.
- (2) However, no more than 3 CPD points may be claimed for participating in a committee in a CPD year.

14 Completing specialist accreditation examination

A legal practitioner accrues 10 CPD points for a CPD year in which the practitioner successfully completes a specialist accreditation examination approved by the Law Society.

15 Undertaking post-graduate studies

- (1) For attending a lecture as part of post-graduate studies, 0.5 CPD point accrues for each 30 minutes of attendance.
- (2) However, no more than 5 CPD points may be claimed for attending lectures in a CPD year.
- (3) For writing an assignment or thesis as part of post-graduate studies, 0.5 CPD point accrues for each 500 words of:
 - (a) an assignment for which at least a pass mark is received; or
 - (b) a thesis that is completed.
- (4) However, no more than 5 CPD points may be claimed for writing assignments and theses in a CPD year.
- (5) Also, a legal practitioner cannot claim CPD points for writing an assignment or thesis that covers substantially the same matter as was covered by any of the following for which the practitioner has claimed CPD points (whether in the same or an earlier CPD year):
 - (a) a presentation given at a seminar;
 - (b) a lecture;
 - (c) a published article.

Part 3 Miscellaneous matters

16 Certificate about compliance with CPD obligation

- (1) A legal practitioner must, before the end of each CPD year, give the Law Society a certificate in the approved form about the practitioner's compliance with the practitioner's CPD obligation for the CPD year.
- (2) If a legal practitioner wishes to claim for a CPD year CPD points accrued after the end of the year, as permitted under clause 6(1), the legal practitioner must:
 - (a) include a statement to that effect in the certificate given under subclause (1); and
 - (b) give to the Law Society a supplementary certificate before the expiry of 3 months after the end of the CPD year.

17 Exemption

- (1) A legal practitioner may, at any time, apply to the Law Society for exemption (in whole or part) from the requirement to comply with the practitioner's CPD obligation for a CPD year.
- (2) The application must be made in the approved form.
- (3) The Law Society may give the exemption if:
 - (a) it is satisfied, because of the legal practitioner's geographical location, physical disability or any particular constraints of the practitioner's practice, the practitioner has experienced hardship or difficulty in complying with the CPD obligation; or
 - (b) it is satisfied the practitioner has been substantially absent from practice because of leave, illness or unemployment; or
 - (c) it is satisfied the practitioner will undertake further CPD activities after the CPD year to meet the CPD obligation; or
 - (d) the practitioner has been admitted to practice for at least 40 years and either:
 - (i) holds a local practising certificate in a category other than unrestricted; or
 - (ii) acts solely as a notary public; or
 - (e) it considers other special circumstances exist.

18 Law Society may require information about CPD obligation

- (1) The Law Society may, by written notice, require a legal practitioner to give it information about the practitioner's compliance with the practitioner's CPD obligation.
- (2) The legal practitioner must comply with the notice within 14 days after it is given.

Part 4 Transitional matters

19 Application of amendments

- (1) The amendments made to this Schedule by the *Legal Profession Amendment Regulations 2012* apply in relation to the CPD year starting on 1 April 2012.
- (2) However, if, immediately before the commencement, a legal practitioner had, in relation to that CPD year:
 - (a) complied with the practitioner's CPD obligation under the previous Scheme – the practitioner is taken to have complied with the CPD obligation under the new Scheme; or
 - (b) accrued 3 or more CPD points in legal practice competencies under the previous Scheme – the practitioner is taken to have accrued 1 CPD point in each core competency under the new Scheme; or
 - (c) accrued 2 CPD points in legal practice competencies under the previous Scheme – the practitioner is taken to have accrued 1 CPD point in any 2 core competencies under the new Scheme; or
 - (d) accrued 1 CPD point in a legal practice competency under the previous Scheme – the practitioner is taken to have accrued 1 CPD point in any core competency under the new Scheme.
- (3) In this clause:

commencement means the commencement of the *Legal Profession Amendment Regulations 2012*.

new Scheme means the scheme set out in Schedule 2 of the *Legal Profession Regulations* as in force immediately after the commencement.

previous Scheme means the scheme set out in Schedule 2 of the *Legal Profession Regulations* as in force immediately before the commencement.