

2 October 2019

Ms Megan Pitt  
Chief Executive Officer, Legal Services Council  
Commissioner for Uniform Legal Services Regulation  
PO Box H326  
AUSTRALIA SQUARE NSW 1215

By email: [submissions@legalservicescouncil.org.au](mailto:submissions@legalservicescouncil.org.au)

Dear Ms Pitt

**PROPOSED AMENDMENTS TO THE LEGAL PROFESSION UNIFORM ADMISSION RULES 2015 (Admission of Foreign Lawyers)**

1. The Law Council of Australia (**LCA**) appreciates the opportunity to provide a submission in response to the proposed *Legal Profession Uniform Admission Amendment (Qualifications) Rule 2019*. The proposed amendments will insert guidance into the *Legal Profession Uniform Admission Rules 2015* about the matters required to be considered by an admitting authority (a **Board**) when an overseas qualified or experienced applicant seeks a direction about additional studies or training, or the exercise of the exemption power in section 18 of the *Legal Profession Uniform Law (Uniform Law)* in relation to, the academic and practical legal training prerequisites for admission specified pursuant to section 17 of the Uniform Law.

2. The LCA has consulted with its constituent bodies and is aware that the Law Society of New South Wales (**LSNSW**) has provided a response to the proposed amendments to the Admission Rules. The LCA agrees with the LSNSW that further guidance in relation to the admission of foreign lawyers would be useful, and that such guidance should also extend to the conditional admission of foreign lawyers pursuant to section 20 of the Uniform Law.

3. The LCA Directors noted in November 2015 that interim guidelines had been developed to assist in the application of sections 18 and 20 of the Uniform Law, on the basis that a period of time was required to enable experience to accumulate in considering and monitoring admissions under these (new) provisions, after which a review would be conducted and new guidelines would be developed.

4. We note that the focus of the proposed amendments, developed following the review by the Uniform Law Admissions Committee, is on the exercise of both the “Directions about qualifications” power in Admission Rule 11 and the exemption power in section 18 of the Uniform Law, where the applicant has worked as a practising lawyer in a foreign jurisdiction for at least 5 years. In these cases, both proposed Admission Rules 11(2A) and 11A(1)(a) provide that the relevant Board must take into account the applicant’s legal skills and experience, taking into account:

- (a) the extent to which the legal system and regulatory framework of the foreign jurisdiction are equivalent to this jurisdiction,

- (b) the number of years the applicant has practised law,
- (c) the type of legal practice the applicant has engaged in,
- (d) the nature of the applicant's previous work, including the applicant's level of responsibility and whether or not the applicant has previously held trust money.

5. Given the criteria to be inserted by proposed Admission Rules 11(2A) and 11A(1)(a) are the same, the Law Council envisages that, over time, common approaches will develop and recommends these be published to assist foreign lawyers who are considering admission to the Australian legal profession, as has been done in Schedule 4 to the *Uniform Principles for Assessing Qualifications of Overseas Applicants for Admission to the Australian Legal Profession* developed by the Law Admissions Consultative Committee.

6. Consistent with the views of the LSNSW, the Law Council also encourages the review and development of common guidelines relating to the application of section 20 of the Uniform Law (which deals with conditional admission). Law Council Directors previously noted the potential for approaches to sections 18 and 20 of the Uniform Law to be conflated when considering applications for admission by foreign lawyers.

7. Guidelines on applications for conditional admission under section 20 of the Uniform Law have been published by the Legal Profession Admission Board of New South Wales; however, no guidelines have been published by the Victorian Legal Admissions Board. With the impending entry of Western Australia into the Uniform Law framework, our view is that common approaches by Boards across all three participating jurisdictions to conditional admission should be adopted and published.

8. Should you have any queries, please contact Murray Hawkins on 02 6246 3734 or [murray.hawkins@lawcouncil.asn.au](mailto:murray.hawkins@lawcouncil.asn.au)

Yours sincerely



**Jonathan Smithers**  
**CHIEF EXECUTIVE OFFICER**