

Administration Act 1903  
Criminal Procedure Act 2004  
Supreme Court Act 1935

## **Supreme Court Rules Amendment (Legal Profession) Rules 2022**

**SL 2022/74**

Made by the judges of the Supreme Court.

### **Part 1 — Preliminary**

**1. Citation**

These rules are the *Supreme Court Rules Amendment (Legal Profession) Rules 2022*.

**2. Commencement**

These rules come into operation as follows —

- (a) Part 1 — on the day on which these rules are published in the *Gazette*;
- (b) the rest of the rules — on the day on which the *Legal Profession Uniform Law Application Act 2022* section 6 comes into operation.

### **Part 2 — *Criminal Procedure Rules 2005* amended**

**3. Rules amended**

This Part amends the *Criminal Procedure Rules 2005*.

**4. Rule 5A amended**

In rule 5A(1) in the definition of ***legally qualified registrar*** delete “an Australian lawyer as defined in the *Legal Profession Act 2008* section 4.” and insert:

a lawyer.

**5. Various references to “lawyer” amended**

In the provisions listed in the Table:

- (a) delete “lawyer” (each occurrence) and insert:

legal practitioner

- (b) delete “lawyer’s” and insert:

legal practitioner’s

- (c) delete “lawyer” (each occurrence) and insert:

legal practitioner

- (d) delete “lawyer’s” and insert:

legal practitioner’s

- (e) delete “**lawyer’s**” (each occurrence) and insert:

**legal practitioner’s**

- (f) delete “**lawyer**” and insert:

**legal practitioner**

- (g) delete “Lawyer” and insert:

Legal practitioner

- (h) delete “Lawyer’s” (each occurrence) and insert:

Legal practitioner’s

**Table**

r. 9(2)	Pt. 3 heading
r. 10(1) and (3)	r. 11(1) and (2)
r. 12	r. 13(1) and (2)
r. 44(5)	r. 57(2), (3) and (4)
r. 61(1)	r. 65(3)
r. 68(2)(a)	r. 72(3)
r. 73(4)	Sch. 1 Forms 1 to 3, 6A to 8, 11, 12 and 18 to 26

Note: The headings to the amended rules listed in the Table are to read as set out in the Table.

**Table**

<b>Amended rule</b>	<b>Rule heading</b>
r. 13	<b>Legal practitioners acting for offenders</b>
r. 57	<b>Legal practitioners may obtain copies of jury panels or pools</b>

### **Part 3 — *Non-contentious Probate Rules 1967* amended**

#### **6. Rules amended**

This Part amends the *Non-contentious Probate Rules 1967*.

#### **7. Rule 27 amended**

Delete rule 27(2)(b) and insert:

(b) a legal practitioner.

#### **8. Rule 43B amended**

In rule 43B:

(a) delete “*Legal Profession Act 2008* Part 10,” and insert:

*Legal Profession Uniform Law (WA)* Part 4.3,

(b) delete “that Act)” and insert:

section 6(1) of that Law)

(c) in paragraph (a) delete “Act; and” and insert:

Law; and

Note: The heading to amended rule 43B is to read:

**Legal costs for non-contentious probate applications**

### **Part 4 — *Rules of the Supreme Court 1971* amended**

#### **9. Rules amended**

This Part amends the *Rules of the Supreme Court 1971*.

#### **10. Order 1 amended**

In Order 1 rule 4(1) delete the definition of *practitioner*.

**11. Order 66 amended**

- (1) In Order 66 rule 11(1) in the definition of ***any relevant scale*** delete “any costs determination, as defined in the *Legal Profession Act 2008* section 252,” and insert:

any legal costs determination made under the *Legal Profession Uniform Law Application Act 2022* section 133,

- (2) In Order 66 rule 11(3) delete “*Legal Profession Act 2008* permitting legal practices” and insert:

*Legal Profession Uniform Law (WA)* permitting law practices

- (3) In Order 66 rule 51(1)(b) delete “*Legal Profession Act 2008* section 280(2).” and insert:

*Legal Profession Uniform Law Application Act 2022* section 141(3).

**12. Order 75A heading replaced**

Delete the heading to Order 75A and insert:

**Order 75A — Admission rules**

**13. Order 75A amended**

- (1) Delete Order 75A rule 1 and insert:

**1. Terms used**

In this Order —

***applicant*** means a person who makes an application under rule 2(1);

***Board*** means the Legal Practice Board established under the *Legal Profession Uniform Law Application Act 2022* section 30(1);

***Supreme Court (full bench)*** means the Court constituted by at least 3 judges.

- (2) In Order 75A rule 2(1) delete “under the *Legal Profession Act 2008* section 25 for admission to the legal profession” and insert:

for admission to the Australian legal profession under the *Legal Profession Uniform Law (WA)* section 16

(3) Delete Order 75A rule 2(3) and insert:

(3) The applicant must serve a notice of motion on the Board when they apply to the Board for a compliance certificate under the *Legal Profession Uniform Law (WA)* section 19(1).

(4) After Order 75A rule 2 insert:

**2A. Compliance certificates**

- (1) If the Board issues a compliance certificate in respect of an applicant under the *Legal Profession Uniform Law (WA)* section 19(3), the Board must file the compliance certificate in the Court at least 7 days before the applicant's proposed date of admission.
- (2) The Board must serve on the applicant a copy of the compliance certificate filed under subrule (1).

**2B. Appeals under *Legal Profession Uniform Law (WA)* section 26 or 27**

Order 65 (other than rule 10(6)) applies to an appeal under the *Legal Profession Uniform Law (WA)* section 26 or 27.

**2C. Objection to admission**

- (1) A person (the *objector*) may object to the admission of an applicant to the Australian legal profession under the *Legal Profession Uniform Law (WA)* section 16(3) by filing a notice in the Court.
- (2) A notice filed under subrule (1) must —
  - (a) state the grounds of the objection; and
  - (b) be filed at least 7 days before the applicant's proposed date of admission; and
  - (c) be served on the applicant, unless the Court orders otherwise.
- (3) The Court may, at any time after a notice under subrule (1) is filed, do one or more of the following —
  - (a) dismiss or strike out the objection if the Court believes that it is frivolous, vexatious, misconceived or lacking in substance, is being

used for an improper purpose or is otherwise an abuse of process;

- (b) order the objector or the applicant, or both, to file written submissions;
  - (c) determine the objection in chambers on the documents;
  - (d) list the objection for hearing.
- (4) If a hearing is held to determine the objection, both the objector and the applicant are entitled to appear and be heard.

- (5) In Order 75A rule 3(1) delete “an applicant” and insert:

a person who applies

- (6) In Order 75A rule 3(2) delete “If the applicant is an interstate lawyer he or she” and insert:

A person who applies for admission under the *Mutual Recognition Act 1992* (Commonwealth) or the *Trans-Tasman Mutual Recognition Act 1997* (Commonwealth)

- (7) Delete Order 75A rule 3(3) and (4) insert:

- (3) A person who is admitted without appearing in person must, within 21 days of being admitted —

- (a) attend at —

- (i) if the application for admission was made under the *Mutual Recognition Act 1992* (Commonwealth) — the office of a superior court of a State or Territory or of the High Court; or
- (ii) if the application for admission was made under the *Trans-Tasman Mutual Recognition Act 1997* (Commonwealth) — the office of a superior court of a State or Territory or the High Court of Australia or of the Supreme Court or High Court of New Zealand;

and

- (b) before the Principal Registrar, a registrar, a deputy registrar or the prothonotary of that court, take an oath or affirmation in the form set out in rule 4.

(4) When a person takes an oath or affirmation in accordance with subrule (3), the person's name is to be entered in the Supreme Court roll maintained under the *Legal Profession Uniform Law (WA)* section 22(1) in the usual manner.

(8) In Order 75A rule 4 delete "*Legal Profession Act 2008* section 26(1)(b)" and insert:

*Legal Profession Uniform Law (WA)* section 16(1)(c)

**14. Order 76 amended**

In Order 76 rule 2(1)(a) delete "local roll maintained under the *Legal Profession Act 2008* section 28 and is not a disqualified person as defined in section 3 of that Act; and" and insert:

Supreme Court roll maintained under the *Legal Profession Uniform Law (WA)* section 22(1) and is not a disqualified person as defined in section 6(1) of that Law; and

**15. Various references to "practitioner" amended**

In the provisions listed in the Table:

(a) delete "practitioner" (each occurrence) and insert:

legal practitioner

(b) delete "practitioners" and insert:

legal practitioners

(c) delete "practitioner's" (each occurrence) and insert:

legal practitioner's

(d) delete "practitioner" (each occurrence) and insert:

legal practitioner

(e) delete "*practitioner*" and insert:

*legal practitioner*

(f) delete "Practitioner" and insert:

Legal Practitioner

**Table**

O. 4A r. 2(2)(g)(i) and (o)	O. 4A r. 4A(b)
O. 4A r. 6(6)	O. 4A r. 7(1) and (3)
O. 4A r. 8(3A)(b)	O. 4A r. 14A(3)(b)
O. 4A r. 18(2)(b)	O. 4A r. 25(2)
O. 8 r. 12	O. 9A r. 1 def. of <i>interested non-party</i>
O. 11A r. 4(3)	O. 11A r. 6(1)(b)(i) and (ii) and (3)
O. 11A r. 7(1) and (2)	O. 12 r. 1(1) and (2)
O. 12 r. 2(1)(a) and (3)	O. 26 r. 1(3)(b)
O. 26 r. 16A	O. 26A r. 8(1) and (3)
O. 43 r. 16(1)	O. 66 r. 5(1), (2) and (4)
O. 66 r. 8	O. 66 r. 8A(1) and (2)
O. 66 r. 11(1) def. of <i>any relevant scale</i>	O. 66 r. 25(3)(d)
O. 66 r. 32(1)	O. 71A r. 2(d)
O. 71A r. 3(2), (4) and (6)	O. 72 r. 5(4)(b) and (5)(b)
O. 76 r. 2(1)(c) and (d)	Sch. 2 Forms 17, 18, 93A and 93B

Note: The headings to the amended rules listed in the Table are to read as set out in the Table:

**Table**

Amended rule	Rule heading
O. 8 r. 12	<b>Legal practitioner or clerk not to be security</b>
O. 26 r. 16A	<b>Certificate by legal practitioner</b>
O. 26A r. 8	<b>Certificate by legal practitioner for non-party or potential party</b>
O. 66 r. 8A	<b>Costs in case of legal practitioner acting pro bono</b>



## **Part 5 — *Supreme Court (Court of Appeal) Rules 2005* amended**

### **16. Rules amended**

This Part amends the *Supreme Court (Court of Appeal) Rules 2005*.

### **17. Rule 3 amended**

In rule 3(1) delete the definition of *lawyer*.

### **18. Various references to “lawyer” amended**

In the provisions listed in the Table:

- (a) delete “lawyer” (each occurrence) and insert:

legal practitioner

- (b) delete “lawyer” and insert:

legal practitioner

- (c) delete “lawyer’s” and insert:

legal practitioner’s

- (d) delete “**lawyers**” and insert:

**legal practitioners**

- (e) delete “**lawyer**” and insert:

**legal practitioner**

- (f) delete “**Lawyer’s**” (each occurrence) and insert:

**Legal practitioner’s**

- (g) delete “lawyer” (each occurrence) and insert:

legal practitioner

- (h) delete “lawyer’s” and insert:

legal practitioner’s

- (i) delete “**lawyer**” and insert:

**legal practitioner**

- (j) delete “**Lawyer**” and insert:

**Legal practitioner**

- (k) delete “*lawyer*” and insert:

*legal practitioner*

**Table**

r. 17(1)	Pt. 4 heading
r. 23(1) and (2)	r. 24(1), (2), (3), (4) and (6)
r. 28(2)	r. 29(2)
r. 41(1)(c)	r. 44(2)(b)
r. 59(1A) and (3)	r. 60(4)
Sch. 1 Forms 1 to 10, 12 to 14A and 16	

Date: 3 June 2022.

The Hon. Chief Justice Peter Quinlan  
Chief Justice of Western Australia  
Supreme Court of Western Australia.

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