



Legal Services (Quality Assurance) Amendment Regulations 2012

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 21st day of May 2012

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 114 of the Legal Services Act 2011, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Legal Services (Quality Assurance) Amendment Regulations 2012.

2 Commencement

These regulations come into force on 2 July 2012.

3 Principal regulations

These regulations amend the Legal Services (Quality Assurance) Regulations 2011 (the **principal regulations**).

4 Regulation 6 amended (Experience and competence requirements)

Replace regulation 6(4) and (5) with:

- “(4) Subclauses (5) to (7) apply to an applicant who, in relation to the relevant experience and competence requirements set out in the Schedule, does not satisfy the requirement that his or her relevant experience be recent experience.
- “(5) The Secretary may decide that the applicant meets the criteria in subclause (1) if, having taken into account the applicant’s experience as a lawyer, the Secretary—
- “(a) is satisfied that the applicant meets the relevant experience and competence requirements in all other respects; and
- “(b) is satisfied of the matter in subclause (2)(c).
- “(6) The Secretary may require the applicant to provide other proof of the applicant’s current legal knowledge and experience.
- “(7) Subclause (2)(a) is subject to subclause (5).”

5 Regulation 8 revoked (References)

Revoke regulation 8.

6 New regulations 9A and 9B and cross-heading inserted

After regulation 9, insert:

“Work samples and references

“9A Work samples

- “(1) Every applicant must provide work samples as proof of the applicant’s recent experience in each area of law to which the application relates, unless the Secretary gives the applicant written notice that the applicant is not required to do so for the reasons specified in that notice.
- “(2) If the Secretary gives notice that an applicant is not required to provide work samples in accordance with subclause (1), the Secretary may require the applicant to provide other proof of the applicant’s recent experience.
- “(3) In this regulation, **work samples** includes any—
- “(a) correspondence to or on behalf of a client:
 - “(b) research notes:
 - “(c) affidavits:
 - “(d) opening and closing addresses:
 - “(e) examination notes.

“9B References

- “(1) Every applicant must provide at least 2 references, unless the Secretary gives the applicant written notice that the applicant is not required to do so for the reasons specified in that notice.
- “(2) If an applicant intends to provide legal aid services or specified legal services in more than 1 area of law, the applicant must provide 1 reference for each area, unless the Secretary gives the applicant written notice that the applicant is not required to do so for the reasons specified in that notice.
- “(3) If the Secretary gives notice that an applicant is not required to provide references in accordance with subclauses (1) and (2), the Secretary may require the applicant to provide other proof of the applicant’s experience and competence.
- “(4) The references provided must be based on the referee’s direct experience and knowledge of the applicant’s skill in the area of law to which the application relates.”

7 Schedule amended

- (1) In the Schedule,—
- (a) replace the heading to clause 12 with “**Refugees and protected persons**”; and
 - (b) in clause 12, delete “or immigration”; and
 - (c) in clause 12(c), replace “Immigration Protection Tribunal” with “Immigration and Protection Tribunal”.
- (2) In the Schedule, replace clause 13(b) with:
- “(b) had substantial and active involvement in 5 appeal proceedings of various types (including, without limitation, pre-trial hearings, Solicitor-General’s appeal, and appeal by way of case stated), all of which must have been held in the High Court or in another higher court.”

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 2 July 2012, amend the Legal Services (Quality Assurance) Regulations 2011 (the **principal regulations**).

Regulation 6 is amended to permit the Secretary for Justice (the **Secretary**) to approve applications from persons who do not meet the requirement in the Schedule that they have recent experience (being experience within the last 5 years), but who otherwise meet all the relevant experience and competence requirements.

Regulations 6(4), 6(5), and 8, which currently require applicants to provide references and work samples, are revoked. Similar requirements are relocated as *new regulations 9A and 9B* beneath a new cross-heading, *Work samples and references*. The requirements to provide work samples and references are relocated in order to indicate that they do not form part of the criteria that must be met by the applicant, but are instead the means by which an applicant may

establish that he or she meets the relevant criteria. In each case the existing requirement to provide references and work samples is retained, but the Secretary may give notice that a particular applicant does not have to do so. If the Secretary does give notice that an applicant is not required to provide references or work samples, he or she must specify reasons for that determination, and may require other proof of the applicant's competence and experience.

Technical amendments are made to clause 12 of the Schedule to align with changes implemented by the Immigration Act 2009, and to clarify that immigration proceedings fall within civil matters.

Clause 13 of the Schedule, which sets out the experience required by applicants who intend to provide services in relation to proceedings before the Court of Appeal or the Supreme Court, is amended to provide that an applicant's past appellate experience must have been gained in the High Court or a higher court.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 24 May 2012.

These regulations are administered by the Ministry of Justice.
