



Legal Services (Quality Assurance) Amendment Regulations 2015

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 28th day of September 2015

Present:

The Hon Bill English presiding in Council

Pursuant to section 114(1)(p) of the Legal Services Act 2011, His Excellency the Governor-General, 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 2015.

2 Commencement

These regulations come into force on 1 November 2015.

3 Principal regulations

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

4 Regulation 6 replaced (Experience and competence requirements)

Replace regulation 6 with:

6 Experience and competence requirements

- (1) If the applicant is a lawyer and is applying to be a lead provider or to provide specified legal services, he or she must be experienced and competent in each area of law in which he or she intends to provide legal aid services or specified legal services.
- (2) In deciding whether the applicant meets the criteria in subclause (1), the Secretary must—
 - (a) apply the relevant experience and competence requirements set out in the Schedule; and
 - (b) take into account the applicant's experience as a lawyer; and
 - (c) be satisfied that the applicant has the appropriate level of knowledge and skill to provide legal aid services or specified legal services in each area of law to which the application relates.
- (3) For the purposes of subclause (2)(c), the Secretary may take into account any course that the applicant has successfully completed and that the Secretary considers relevant to an area of law to which the application relates.
- (4) This regulation is subject to regulations 6A and 6B.

6A General waiver of requirement for recent experience

- (1) This regulation applies to an applicant who—
 - (a) is a lawyer and is applying to be a lead provider or to provide specified legal services; but
 - (b) in relation to the experience and competence requirements referred to in regulation 6(2)(a) and set out in the Schedule, does not satisfy the requirement that his or her relevant experience must be recent experience.

- (2) The Secretary may waive the requirement for the applicant's relevant experience to be recent experience if the Secretary is satisfied that the applicant meets the relevant experience and competence requirements in all other respects.
- (3) The Secretary may require the applicant to provide proof (in addition to that required by any other provision of these regulations) of the applicant's current legal knowledge and experience.

6B Waiver of experience and competence requirements for specified purpose

- (1) This regulation applies to an applicant who—
 - (a) is a lawyer and is applying to be a lead provider or to provide specified legal services; but
 - (b) does not satisfy 1 or more of the relevant experience and competence requirements referred to in regulation 6(2)(a) and set out in the Schedule (including the requirement that his or her relevant experience be recent experience).
- (2) The Secretary may waive 1 or more relevant experience and competence requirements to allow the applicant to act—
 - (a) in a proceeding that relates to another proceeding in which the applicant is acting, or has acted; or
 - (b) in a proceeding, or type of proceeding, for which the applicant has specialist skills or experience; or
 - (c) in a proceeding, or type of proceeding, taking place in a region with a shortage of existing providers with the necessary skills and experience to act in the proceeding, or type of proceeding.
- (3) Before waiving a requirement under subclause (2), the Secretary—
 - (a) must take into account—
 - (i) the nature of the requirement or requirements to be waived; and
 - (ii) the extent to which the applicant fails to meet the requirement or requirements; and
 - (b) must be satisfied that—
 - (i) the applicant is suitable to act in the proceeding, or type of proceeding, to which the waiver relates; and
 - (ii) it would be more efficient for the applicant, rather than another lawyer, to act in the proceeding or type of proceeding.
- (4) The Secretary may require the applicant to provide any information that the Secretary considers necessary to determine the application, including either or both of the following:
 - (a) proof (in addition to that required by any other provision of these regulations) of the applicant's current legal knowledge and experience:

- (b) an explanation of how granting a waiver to the applicant would assist in meeting a need for legal aid services or specified legal services.

5 Regulation 10 amended (Conditions on approval)

After regulation 10(1)(d), insert:

- (e) where a provider has approval to provide legal aid services or specified legal services in a specific proceeding, the condition that the provider may provide those services only for that proceeding.

6 Schedule amended

In the Schedule heading, replace “r 6” with “rr 6, 6A, 6B”.

Michael Webster,
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 1 November 2015, make 2 changes to the Legal Services (Quality Assurance) Regulations 2011 (the **principal regulations**).

First, the regulations replace regulation 6 of the principal regulations, which relates to the experience and competence requirements that must be met by a lawyer seeking to provide legal aid services or specified legal services.

New regulations 6 and 6A largely restate regulation 6 (which these regulations replace).

New regulation 6B allows the Secretary for Justice (the **Secretary**) to waive 1 or more relevant experience and competence requirements to allow a lawyer to act in a proceeding (or type of proceeding) if—

- the lawyer has acted, or is acting, in a related proceeding; or
- the lawyer has specialist skills required for the proceeding, or type of proceeding; or
- the lawyer is able to provide services in a region with a shortage of suitable providers.

Secondly, the regulations amend regulation 10 of the principal regulations, which sets out the conditions that the Secretary may impose on an approval to provide legal aid services or specified legal services. The regulations allow the Secretary to impose a condition precluding a lawyer from providing services in respect of a proceeding other than the proceeding to which the approval relates.

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**Legal Services (Quality Assurance) Amendment
Regulations 2015**

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