

# **NEW ZEALAND COUNCIL OF LEGAL EDUCATION**

## **CONDUCT OF THE NEW ZEALAND LAW AND PRACTICE EXAMINATION REGULATIONS 1996 (consolidated 1 November 2012)**

### **Title and Implementation**

- 1 (1) These Regulations may be cited as the Conduct of the New Zealand Law and Practice Examination Regulations 1996.
- (2) These Regulations shall come into force on the 1st day of June 1996.

### **Interpretation**

- 2 In these Regulations, unless the context otherwise requires-

"Academic Co-ordinator" means the person engaged as Academic Co-ordinator by or on behalf of the New Zealand Council of Legal Education.

"Chairman" means the Chairman of the New Zealand Council of Legal Education;

"Chief Executive" means the Chief Executive of the New Zealand Council of Legal Education;

"Council" means the New Zealand Council of Legal Education constituted under the Lawyers and Conveyancers Act 2006;

"Examination" means the New Zealand Law and Practice Examination;

"Examination Administrator" means the person engaged as Examination Administrator by or on behalf of the New Zealand Council of Legal Education;

"Part" means any one of the six Parts of the New Zealand Law and Practice Examination.

### **The Examination**

- 3 (1) The Council shall conduct at least one sitting in each year of an examination in the law of, and in the practice of the law in, New Zealand, known as the New Zealand Law and Practice Examination.

- (2) Subject to the provisions of the Lawyers and Conveyancers Act 2006 and of the Professional Examinations in Law Regulations 2008, the Council shall have the power to do whatever it considers necessary or expedient for the administration of the Examination.
- (3) The Examination is to be held at each of the University law faculties in New Zealand. The Council may also allow the Examination to be sat at one overseas centre in the United Kingdom, to be determined by the Council.  
[amended 2011, 2012]

4 The Examination shall comprise six Parts:

- I New Zealand Legal System
- II Law of Contracts
- III Criminal Law
- IV Property Law
- V Law of Torts
- VI Equity

The prescription for each Part shall be defined from time to time by the Council.

- 5 For each Part of the Examination entered candidates will be allowed 90 minutes to read and answer the questions comprising that Part.
- 6
  - (1) The questions comprising each Part of the Examination shall be prepared by an examiner appointed by the Council, or by the Academic Co-ordinator on its behalf, and settled by that examiner and one or more moderators nominated by the New Zealand Law Society, and appointed by the Council.
  - (2) Any disagreement between the examiner and the moderator or moderators as to the content of any examination question shall be referred for final decision to a person appointed by the Chairman.
  - (3) In respect of each Part of the Examination the scripts submitted by candidates shall be marked by the examiner and submitted to one or more assessors nominated by the New Zealand Law Society and appointed by the Council.
  - (4) Any disagreement between an examiner and the assessor or assessors as to the marking of any script in any Part of the Examination shall be referred for final decision to a person appointed by the Chairman.
  - (5) The examiners, moderators and assessors referred to in clauses (1) to (4) of this Regulation shall be appointed for a term not exceeding three years.

## **Eligibility**

- 7 To be eligible to sit the Examination a candidate must have either applied to the Council of Legal Education for credits towards a law qualification, or have been required by a Law School University in New Zealand to pass one or more Parts of the Examination to meet the University's requirements to complete a law qualification, and must not have been disqualified by the Council from entering for the Examination at the material time.

## **Application**

- 8 (1) Every candidate wishing to sit the Examination at a Law School University centre in New Zealand shall make an examination entry on the form provided, and shall send it to the Examination Administrator at the Council not later than one month before the date of the Examination.
- (2) A candidate wishing to sit the Examination at the overseas venue shall make an examination entry on the form provided, and shall send it to the Examination Administrator not later than three months before the date of the Examination.  
[amended 2011]
- (3) A late entry may be accepted by the Examination Administrator, at the discretion of the Council provided that it is possible for the Examination Administrator to make the arrangements for the candidate to take the Examination in the time available.
- (4) Every candidate shall send with his or her examination entry the fee appropriate to that entry as prescribed by the Council.
- (5) A candidate may enter in from one to six Parts of the Examination prescribed in these Regulations except as otherwise provided by any Regulation or decision of the Council.
- 9 (1) The Examination shall comprise such written materials as the examiners may determine.
- (2) Candidates shall write out answers to the questions in the presence of a supervisor, who shall be appointed or approved by the Examination Administrator in accordance with such detailed instructions as may be furnished by or on behalf the Council.
- (3) No candidate may be examined in any Part of the Examination at any time other than that set down by the Council.
- (4) Candidates will be informed whether they have passed or failed each Part of the Examination for which they submitted an entry.

## **Examination Offences**

- 10 (1) No candidate shall be allowed to enter the examination room later than 30 minutes after candidates have begun writing the examination.
- (2) No candidate shall be permitted to leave the examination room until 45 minutes has elapsed from the time the examination began, and only then with the permission of the supervisor and upon handing in his or her script.
- (3) No candidate shall bring into the examination room any written, printed or electronically recorded materials except by direction of the examiner.
- (4) No candidate shall communicate with another in the examination room.
- (5) No candidate shall continue writing an answer after the supervisor has announced the expiration of time. In no circumstances is any time over and above the time allotted to the candidate to be allowed for the candidate to read his or her script, or to make any amendment or addition to his or her script.
- (6) Any complaint that a candidate has committed an examination offence shall be referred to the Chairman.
- (7) The Chairman shall hear and determine any complaint regarding an examination offence by a candidate. The candidate concerned shall be notified in writing of the subject matter of complaint and the time and place of the hearing. He or she shall be invited to state in writing his or her answers to the complaint and may attend the hearing.
- (8) The Chairman shall have the power to do all or any of the following things in the case of a candidate found guilty of an examination offence:
  - (a) impose upon him or her any fine relating to the costs of the hearing and determination by the Chairman;
  - (b) disqualify him or her from sitting the Examination for such a period as may be prescribed; or
  - (c) cancel any passes with which the candidate may have been credited in the Examination in respect of which the offence has occurred.
- (9) The Chief Executive shall inform the candidate in writing of the Chairman's decision following the hearing regarding an examination offence.
- (10) A candidate may appeal to the Council from any decision under clause (8) of this Regulation by giving notice in writing to the Chief Executive within 14 days of being notified of the decision. A candidate so appealing shall be entitled to make a submission in writing and may with consent of the Council appear when the appeal is determined. The Council may

dismiss or allow the appeal or vary the penalty but shall not impose any penalty which the Chairman could not have imposed. The decision of the Council on any appeal under this Regulation shall be final.

### **Concessions**

- 11 (1) A candidate whose performance in any Part of the Examination has been impaired by illness or injury may on application to the Chairman be granted an aegrotat pass in that Part subject to following conditions:
- (a) the illness or injury was reported in writing to the Chief Executive at the earliest possible opportunity;
  - (b) the candidate has furnished to the Chief Executive a certificate in the form set out in the Schedule to these regulations from a registered medical or dental practitioner, including statements -
    - (i) that the practitioner examined the candidate on a certain date;
    - (ii) that in the opinion of the practitioner the candidate's performance in the examination was likely to have been impaired by illness or injury; and
    - (iii) on the nature of illness or injury in sufficient detail to make it clear that the candidate was not responsible for the disability, and in a form suitable for submission in cases of doubt to a medical or dental referee; and
  - (c) that the assessor or assessors appointed in accordance with clause (3) of Regulation 6 of these Regulations or, in the event of their not being in New Zealand or able to act, the Academic Co-ordinator certifies that, taking into account all the work completed by the candidate in that Part and in other Parts of the Examination (whether at the current sitting of the Examination or at a previous sitting) and the extent of the candidate's disability at or before the time of the current sitting of the Examination, the candidate is in the opinion of the assessor or assessors, or the Academic Co-ordinator, clearly worthy of a pass in that Part.
- (2) A candidate whose performance in any Part or Parts of the Examination has been impaired as a result of:
- (a) personal bereavement near the date of the examination, or
  - (b) some other critical personal circumstances involving the health of a close relative, or
  - (c) some exceptional circumstances beyond the candidate's control -
- may on application to the Chairman be granted a pass in that Part on compassionate grounds, if, but only if:

- (i) the circumstances have been reported in writing to the Chief Executive at the earliest possible opportunity with such evidence as may be required to substantiate the claim; and
  - (ii) that the assessor or assessors appointed in accordance with clause (3) of Regulation 6 of these Regulations or, in the event of their not being in New Zealand or able to act, the Academic Co-ordinator certifies that, taking into account all work completed by the candidate in that Part and in other Parts of the Examination (whether at the current sitting of the Examination or at a previous sitting) and the extent of the candidate's impairment at or before the time of the current sitting of the Examination, the candidate is in the opinion of the assessor or assessors or the Academic Co-ordinator clearly worthy of a pass in that Part.
- (3) Except in exceptional circumstances the application to the Chairman under clauses (1) and (2) of this Regulation shall be made within seven days of the date of examination.
- (4) A candidate required to pass more than one Part of the Examination who has passed the Examination in all Parts except in one may apply to the Chairman for a compensation pass in the Examination as a whole. In determining whether to grant an application under this provision the Chairman shall take into account the marks or grades awarded in each Part of the Examination in which the candidate passed, and the mark or grade awarded in that Part of the Examination which the candidate failed. Except in exceptional circumstances an application under this clause shall be made within a month of receipt of the candidate's results.
- (5) A candidate who establishes to the satisfaction of the Chief Executive that by reason of illness, injury or the compassionate circumstances set out in clause (2) of this Regulation he or she was unable to sit any Part of the Examination for which he or she had entered may be granted a refund of a proportion of the fee which reflects the costs which have not been incurred by the Council in respect of the marking and assessing of an examination script.

### **Recount of Marks**

- 12 By making an application to the Examination Administrator within four weeks from the date of the posting of his or her official result of the Examination, any candidate sitting the Examination may have the marks awarded his or her script recounted in any Part which he or she has failed. The fee for such a recount shall be as prescribed by the Council. A recount of marks application will result in the examiner carefully re- checking the marks recorded to ensure that no answer or any portion of an answer submitted by a candidate has been overlooked. No information relative to the application for a recount will be placed before the examiner.

### **Return of Scripts**

- 13 By making an application to the Examination Administrator within four weeks from the date of the mailing of his or her official result of the Examination, and paying the fee prescribed by the Council, a candidate may obtain a photocopy of his or her examination script.

### **Communication with Examiners**

- 14 No candidate shall communicate with an examiner in regard to the Examination except through the Chief Executive.

### **Transitional Provisions**

- 15 (1) Any candidate for admission to practise law as a barrister and solicitor of the High Court of New Zealand who has been required by the Council before these Regulations came into force to pass Parts of the Examination of 40 minutes duration and who -
- (a) has passed some such Parts shall be deemed to have passed the corresponding Part or Parts of the Examination of 90 minutes duration provided for in these Regulations; or
  - (b) has not passed some such Parts shall be required to pass the corresponding Part or Parts of the Examination of 90 minutes duration provided for in these Regulations.
- (2) The Parts described in Regulation 4 of these Regulations as Part IV Land Law and Part VI Equity correspond with Property Law (Part IV) in Regulation 4 of the Conduct of the Examination in New Zealand Law and Practice Regulations 1990.

### **Revocation**

- 16 The Conduct of the Examination in New Zealand Law and Practice Regulations 1990 are hereby revoked.

**All inquiries concerning these Regulations should be made to Rosemary Gordon, Chief Executive of the New Zealand Council of Legal Education.**

**The commencement date for these Regulations is 1 June 1996.**

**Chief Executive  
New Zealand Council of Legal Education  
1 November 2012**

## **THE SCHEDULE (Regulation 11)**

### **Aegrotat Consideration Application**

A candidate whose performance in a Part of the Examination in New Zealand Law and Practice has been impaired on the actual day of Examination by illness or injury may, on application to the Chairman of the Council of Legal Education, be granted an aegrotat pass in that Part subject to the conditions in regulation 11(1) of the Conduct of the New Zealand Law and Practice Examination Regulations 1996.

### **Instructions To Complete This Form**

Section A is to be completed by the candidate. Section B is to be completed by a registered medical practitioner or registered dental practitioner.

In order to ensure fairness of treatment of aegrotat applications among candidates, please complete the form according to the following instructions -

#### **To Candidates**

1. You must consider your performance in the Examination was impaired because of illness or injury on the day of the Examination.
2. You must have attempted the Examination.
3. You must have reported your illness or injury to the Chief Executive of the Council at the earliest opportunity after attempting the Examination.
4. Do not complete your application until you have actually sat the Part of the Examination, so that you will be able to assess accurately your degree of impairment. Then, see your doctor or dentist as soon as possible, preferably on the day of the Examination, and have him or her complete section B of this form. Your medical evidence should be detailed and clearly cover the period for which you are claiming consideration.
5. To recommend an aegrotat pass an Assessor, or the Academic Coordinator, must be able to certify that taking into account all the work you completed at the current or at a previous sitting of the Examination (whether in the relevant Part or in any other Part) you are clearly worthy of a pass in the relevant Part.
6. This form is for aegrotat passes only. Aegrotat passes may be granted only where the illness or injury resulted in impaired performance at the time of sitting the relevant Part of the Examination. Please consult the rest of regulation 11 of the Conduct of the New Zealand Law and Practice Examination Regulations 1996 for other concessions.



**To Medical and Dental Practitioners**

1. The medical evidence submitted must be sufficient to make it clear that the candidate's performance was affected at the time of the Examination.
2. Medical evidence should give full details of the illness and be dated to cover the period affected and be submitted on the official application form.

## Section A - To Be Completed By The Applicant

Please read the instructions at the beginning of this form.

Surname: \_\_\_\_\_

First Names: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Parts of the Examination you were able to sit but for which impaired performance is claimed:

| Date | Time | Part Number and Title |
|------|------|-----------------------|
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N.B. Please ensure that the date of examination, part number and title are correct.

I authorise the medical practitioner or dental practitioner to release the information contained in this form to the persons involved in the assessment of this application, and to supply further information or clarification directly to any qualified medical practitioner, or independent medical referee, appointed by the Council who may seek such information or clarification.

I understand that the information associated with this application will be used for the purpose of this application only and will not be released to other persons.

I have read, understood and complied with this form and the Conduct of the New Zealand Law and Practice Examination Regulations 1996.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Section B - Confidential Report To Be Completed By Registered Medical Practitioner Or Registered Dental Practitioner**

Please read the instructions at the beginning of this form and initial in the space provided.

Further details may be attached to this report if appropriate.

This is to certify that I was consulted by \_\_\_\_\_

on (date) \_\_\_\_\_

**Diagnosis:**

Has the candidate suffered an illness or injury?:

If so, what is the illness or injury?:

History and relevant past history:

Clinical signs/investigations:

In my opinion this candidate is likely to have suffered impaired performance to a:

mild degree  
moderate degree  
serious degree

Name and Surgery Stamp: (Please print) \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

**[Amended 2011]**

## Minimum Legislative Information Table

|                                                  |                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Title</b>                                     | Conduct of the New Zealand Law and Practice Examination Regulations 1996                                                                                                                                                                                                                               |
| <b>Principal or amendment</b>                    | Principal                                                                                                                                                                                                                                                                                              |
| <b>Consolidated version</b>                      | Yes                                                                                                                                                                                                                                                                                                    |
| <b>Empowering Act and provisions</b>             | Law Practitioners Act 1982, section 39                                                                                                                                                                                                                                                                 |
| <b>Replacement empowering Act and provisions</b> | Lawyers and Conveyancers Act 2006, section 278                                                                                                                                                                                                                                                         |
| <b>Maker name</b>                                | The New Zealand Council of Legal Education (previously called the Council of Legal Education)                                                                                                                                                                                                          |
| <b>Administering agency</b>                      | The New Zealand Council of Legal Education (previously called the Council of Legal Education)                                                                                                                                                                                                          |
| <b>Date made</b>                                 | 19 April 1996                                                                                                                                                                                                                                                                                          |
| <b>Publication date</b>                          | 1 June 1996                                                                                                                                                                                                                                                                                            |
| <b>Notification date</b>                         | Not applicable                                                                                                                                                                                                                                                                                         |
| <b>Commencement date</b>                         | 1 June 1996                                                                                                                                                                                                                                                                                            |
| <b>End date</b>                                  | Not applicable                                                                                                                                                                                                                                                                                         |
| <b>Consolidation as at date</b>                  | 1 November 2012                                                                                                                                                                                                                                                                                        |
| <b>Related Instruments</b>                       | <a href="#">Conduct of the New Zealand Law and Practice Examination Regulations 1996</a><br><a href="#">Conduct of the New Zealand Law and Practice Examination (Amendment) Regulations 2010</a><br><a href="#">Conduct of the New Zealand Law and Practice Examination Amendment Regulations 2012</a> |

Note: For clarity and ease of understanding, references within these regulations to the revoked Law Practitioners Act 1982 have been updated to reference the Lawyers and Conveyancers Act 2006 which replaced it.