

# **NEW ZEALAND COUNCIL OF LEGAL EDUCATION**

## **PROFESSIONAL LEGAL STUDIES COURSE REGULATIONS 2004**

**(consolidated 1 November 2006)**

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### **Schedule**

## 1 Title and commencement

- (1) These regulations may be cited as the Professional Legal Studies Course Regulations 2004.
- (2) These Regulations shall come into force on the 1<sup>st</sup> day of January 2005.

## 2 Definitions

In these Regulations, unless the context otherwise requires –

**“assessment”** means a skills assessment, a supplementary assessment, or a further skills assessment:

**“assessment record”** means a written record which records –

- (a) that a trainee participated in the course;
- (b) the grades the trainee has received for each assessment;
- (c) whether the trainee has satisfactorily or not satisfactorily completed or participated in all seminars; and
- (d) whether the trainee has passed the course:

**“Course”** means the Professional Legal Studies Course:

**“Director”** means the person expressly notified in writing by the Provider to the Chief Executive of the New Zealand Council of Legal Education as the person authorised by the Provider to perform the functions of the Director under these Regulations:

**“exercise”** means an activity that a trainee is required to carry out as part of the course:

**“further skills assessment”** means a skills assessment to be completed if the trainee has received -

- (a) a grade of Not Yet Competent for two skills assessments; or
- (b) a grade of Not Yet Competent after completing a supplementary assessment:

**“GST”** means goods and services tax:

**“Instructor”** means a person appointed as an Instructor by the Director:

**“intake”** means a period during which the course is taught:

**“Provider”** means an entity which is accredited under the Professional Legal Studies Course Accreditation Regulations 2006 to provide the course:

**“seminar”** means a part of the course (which may include instruction, and/or exercises, and/or skills assessments) relating to a particular skill or skills, professional conduct and/or area of legal practice:

**“skills assessment”** means in relation to any seminar, an assessment of a trainee’s –

- (a) ability to perform skills taught during the seminar;
- (b) knowledge of relevant procedural and substantive law; and
- (c) ability to identify relevant issues relating to professional conduct:

**“supplementary assessment”** means a skills assessment which may be completed if the trainee has received a grade of Not Yet Competent in not more than one skills assessment.

**“trainee”** means a person who is enrolled in the Course.

**[Amended 2005]**

## **Course**

### **3 The Professional Legal Studies Course**

- (1)
  - (a) The course must include training and assessment in professional conduct and 11 skill areas prescribed by the New Zealand Council of Legal Education in the Professional Legal Studies Course Accreditation Regulations 2006, and the Professional Legal Studies Course Standards and Assessment Regulations 2002.
  - (b) Assessment consists of skills assessments and assessment in Professional Conduct.
  - (c) In any certificate of completion of its course or otherwise, a Provider may refer to the qualification gained on passing the course as a Certificate in Professional Legal Studies.
- (2)
  - (a) No person is eligible to undertake the Course unless, before the commencement of the intake of the Course to which the person seeks entry, the person has furnished the Provider with a transcript or other document from the university which that person is attending or has attended, confirming that the person has completed (or will by the commencement date have completed) all the requirements of the university so that the person is or will be (as the case may be) eligible for an LLB by the commencement date.
  - (b) Regulation 3(2)(a) does not apply to a person with overseas qualifications who is required by the New Zealand Council of Legal Education to complete the Course. Such a person will not be eligible to undertake the Course unless, before the commencement of the intake of the Course to which the person seeks entry, the person provides evidence to the Provider in the form of a letter from the Chief Executive of the New Zealand Council of Legal Education confirming that the person has completed all other requirements (if any) which the New Zealand Council of Legal Education imposed upon that person.

**[Amended 2006]**

## Course requirements

### 4 Participation in every seminar

- (1) A trainee must participate in seminars and demonstrate his or her best efforts in completing them.
- (2) If an Instructor believes that a trainee is not complying with regulation 4(1), the Instructor will tell the trainee of that belief and the basis for it.
- (3) If a trainee does not participate in a seminar or part of a seminar, and does not have an adequate reason for non-participation, the Director will -
  - (a) withdraw the trainee from any skills assessment related to the seminar and regulation 4(4) will apply; or
  - (b) if the trainee completes all of the exercises in that seminar before the date for that skills assessment, allow that trainee to complete any skills assessment related to that seminar in the intake which the trainee is attending, but, if that trainee does not complete all of the exercises before the date for that skills assessment, the Director will withdraw that trainee from that skills assessment and regulation 4(4) will apply.
- (4) A trainee who has been withdrawn under regulation 4(3)(a) or (b) from a skills assessment and who wishes to complete in a subsequent intake a skills assessment must-
  - (a) apply in writing to the Director within one month of being withdrawn;
  - (b) enclose the fee (if any) stated by the Provider in the Handbook or course materials covering that intake; and
  - (c) complete all of the exercises related to that seminar before the date for the skills assessment.
- (5) A Director who receives an application under regulation 4(4) will -
  - (a) arrange for the trainee to complete a skills assessment in a subsequent intake; and
  - (b) notify the trainee of the date for the skills assessment to be completed.
- (6) If a trainee does not participate in a seminar or part of a seminar, and the Director is satisfied that the trainee has an adequate reason for non-participation, the Director will allow the trainee to complete any skills assessment related to that seminar in the intake in which the trainee is enrolled, provided that the trainee has completed all of the exercises for that seminar before the date for the skills assessment.

- (7) If a trainee who received permission under Regulation 4(6) above does not complete all of the exercises before the date for the skills assessment but still wishes to complete a skills assessment, that trainee must -
- (a) apply in writing to the Director, and
  - (b) complete all of the exercises before the date for the next skills assessment in that seminar.
- (8) A Director who receives an application under regulation 4(7) will -
- (a) arrange for the trainee to complete a skills assessment as soon as is practicable; and
  - (b) notify the trainee of the date for the next skills assessment to be completed.
- (9) Meeting a requirement of employment is not regarded as an adequate reason for not participating in a seminar.

## **5 Copied work**

- (1) Work submitted by a trainee for an assessment or for feedback must not be copied work.
- (2) Copied work includes -
- (a) work taken from any law firm's precedents, and
  - (b) work taken from, or the substance of which is in whole or part identical to work of, any other trainee, former trainee, or other person –

but does not include work taken from a published precedent which is available in hard copy or electronic form.

- (3) If a trainee copies work in any assessment -
- (a) the assessment will be graded Not Yet Competent, and
  - (b) the trainee will not be allowed to complete a supplementary assessment or a further skills assessment -

but the trainee may, at the discretion of the Director, repeat one or more seminars or the intake under regulation 15.

## **6 Confidentiality of assessment information**

- (1) A trainee must not -
  - (a) disclose to any other trainee or intending trainee any information about an assessment which that first-mentioned trainee has received on a confidential basis from an Instructor; or
  - (b) receive from any other trainee or former trainee any information about an assessment which was supplied to that other or former trainee by an Instructor on a confidential basis; or
  - (c) discuss an assessment while it is in progress.
- (2) If a trainee has either disclosed or received or discussed information about an assessment under regulation 6(1) -
  - (a) the assessment will be graded Not Yet Competent, and
  - (b) the trainee will not be allowed to complete a supplementary assessment or a further skills assessment -

but the trainee may, at the discretion of the Director, repeat one or more seminars or the intake under regulation 15.

## **7 Assessments to be completed within time allowed**

- (1) A trainee must complete a skills assessment, supplementary assessment or further skills assessment:
  - (a) on the date notified, unless deferment of the assessment is granted under regulation 18, and
  - (b) within the time specified in relation to that assessment generally, or within the time specified by the Director where the trainee has satisfied the Director that he or she has a disability which necessitates further time to complete the assessment, and a specified further time (“further time”) has been granted by the Director.
- (2) On expiry of the time specified in relation to that assessment generally, or, in the case of a trainee who has been granted further time to complete the assessment under regulation 7(1)(b), expiry of the further time, a trainee must submit his or her script, or in the case of an oral assessment, cease performance.
- (3) No written work handed in by, or oral work performed by, a trainee after the expiry of the time specified in relation to that assessment generally, or, in the case of a trainee who has been granted further time to complete the assessment under regulation 7(1)(b), expiry of the further time, will be marked.

## Assessments

### 8 Skills assessments

- (1) The form and content of each skills assessment will be determined by the Director.
- (2) Each skills assessment will be graded by an Instructor, and the mark awarded and feedback will be given to the trainee as soon as practicable.
- (3) (a) For skills assessments the trainee will receive grades as follows -

<b>Skills assessments</b>	<b>Grade</b>
Negotiation and Advocacy skills assessments	Pass Not Yet Competent
Other skills assessments	Merit Competent Not Yet Competent

- (b) Where a Provider delivers and assesses Negotiation and/or Advocacy in combination with other skills, grades of Competent, Merit, or Not Yet Competent may be awarded for the combined assessment.
- (4) A trainee who wishes to complete a skills assessment, must have completed -
  - (a) all of the exercises related to the skills assessment, or
  - (b) alternative exercises as determined by the Director.
- (5) An Instructor may require a trainee to answer further questions relating to a skills assessment.

### 9 Maori language in assessments

- (1) A trainee may complete any skills assessment in the Maori language.
- (2) A trainee who intends to complete an oral assessment in the Maori language must give reasonable notice of that intention so that translation can be arranged.
- (3) A trainee who intends to complete a written assessment in the Maori language is not required to give notice of that intention but, if that trainee informs the Director of that intention, undue delay in the return of that trainee's assessment may be avoided.

## **10 Assessment record**

A trainee will receive an assessment record as soon as practicable after the end of the intake of the course in which he or she is enrolled.

## **Grading system**

### **11 Requirement to pass the course**

A trainee who receives a grade of either Pass, Merit, Competent or Completed Satisfactorily for all the assessments in the same intake (or in the case of a trainee who undertakes a supplementary assessment, receives any such grade after the supplementary assessment) will pass the course.

### **12 Eligibility for supplementary assessment**

- (1) A trainee who receives a grade of Not Yet Competent for one skills assessment, may apply to complete, as soon as practicable, a supplementary assessment under regulation 16 for the skills assessment in which the trainee received a Not Yet Competent grade.
- (2) Regulation 12(1) shall not apply to a Not Yet Competent grade received for copied work under regulation 5 or disclosed work under regulation 6.

### **13 Possibility of further skills assessment**

- (1) A trainee who receives a grade of Not Yet Competent for two (but no more than two) skills assessments, may -
  - (a) apply under regulation 17 to the Director to complete in a subsequent intake a further skills assessment for each skills assessment in which that trainee received a Not Yet Competent grade; or
  - (b) apply under regulation 17 to the Director to complete in a subsequent intake a further skills assessment and complete a further seminar for each skills assessment in which that trainee received a Not Yet Competent grade.
- (2) Regulation 13(1) shall not apply to a Not Yet Competent grade received for copied work under regulation 5 or disclosed work under regulation 6.

### **14 Minimum standard for passing the course**

A trainee who receives a grade of Not Yet Competent for more than two skills assessments may not complete a supplementary assessment or a further skills assessment but the trainee may, at the discretion of the Director, repeat the intake in full once, unless permitted under regulation 19 to do so more than once.



## 15 Copied or disclosed work in a skills assessment

A trainee who receives a Not Yet Competent grade for one or more skills assessments under regulation 5(3) or regulation 6(2) may, at the discretion of the Director -

- (a) repeat one or more seminars, including the skills assessment for each seminar, chosen by the Director; or
- (b) repeat the course in full once, unless permitted under regulation 19 to do so more than once.

## 16 Supplementary assessments

- (1) A trainee who wishes to apply for a supplementary assessment must do so in writing to the Director at any time up to 3 working days after the date that the intake finishes.
- (2) The Director will -
  - (a) arrange for the trainee to complete a supplementary assessment as soon as practicable; and
  - (b) notify the trainee of the date for the supplementary assessment to be completed.
- (3) For supplementary assessments the trainee will receive grades as set out below and an entry will be made in the assessment record as set out in the second column. The grade of Pass only applies to Negotiation and/or Advocacy and only where either or both are separately assessed, in accordance with regulation 8(3).

<b>Grade</b>	<b>Assessment record</b>
Merit	Merit
Competent	Competent
Pass	Pass
Not Yet Competent	No assessment record issued

- (4) A trainee who has one Not Yet Competent grade after completing one supplementary assessment may -
  - (a) apply to the Director to complete in a subsequent intake a further skills assessment under regulation 17 for the skills assessment in which the trainee received a Not Yet Competent grade; or

- (b) apply to the Director to complete in a subsequent intake a further skills assessment under regulation 17 and participate in a further seminar or seminars for the skills assessment in which that trainee received a Not Yet Competent grade.

**17 Further skills assessments**

- (1) A trainee who wishes to apply for a further skills assessment must -
  - (a) apply to the Director in writing within 21 days of the date the intake finishes;
  - (b) enclose the fee (if any), stated by the Provider in its handbook or course materials which apply to that intake, for each further skills assessment; and
  - (c) enclose the fee (if any), stated by the Provider in its handbook or course materials for each day of the seminar the trainee wishes to complete.
- (2) The Director will -
  - (a) arrange for the trainee to complete in a subsequent intake one or more further skills assessments; or
  - (b) arrange for the trainee to complete in a subsequent intake one or more further skills assessments and participate in the seminar or seminars in which the assessment is or the assessments are to be completed, in a subsequent intake; and
  - (c) notify the trainee of the dates for the further skills assessments and seminars as the case requires.
- (3) For further skills assessments the trainee will receive grades as set out below and an entry will be made in the assessment record as set out in the second column. The grade of Pass only applies to Negotiation and/or Advocacy, and only where either or both are separately assessed, in accordance with Regulation 8(3).

<b>Grade</b>	<b>Assessment record</b>
Merit	Merit
Competent	Competent
Pass	Pass
Not Yet Competent	No assessment record issued

- (4) A trainee who has at least one Not Yet Competent grade after completing one or two further skills assessments may repeat the course in full once, unless permitted under regulation 19 to do so more than once.

## **Deferment of assessments**

### **18 Deferment of assessments**

- (1) A trainee who is unable to complete a skills assessment, a supplementary assessment, or a further skills assessment on the date notified for the assessment, on the grounds of accident, illness, disability, family bereavement, personal stress or otherwise, may apply to complete that assessment on another date and the Director may give such permission.
- (2) A trainee who wishes to apply for a deferment must -
  - (a) apply to the Director in writing no later than 7 days after the date for the assessment;
  - (b) set out the reason for not completing the assessment on the date for the assessment; and
  - (c) enclose in support of the reason documentary evidence such as letters from a doctor, health-care or counselling professional, police officer or some other independent person.
- (3) Where a trainee who does not complete a skills assessment, supplementary assessment or further skills assessment on the date for the assessment and -
  - (a) does not apply for a deferment, or
  - (b) is not granted a deferment by the Director -the assessment record will record a grade for the skills assessment of Not Yet Competent.

## **Appeal**

### **19 Assessment Appeals Committee**

- (1) A committee known as the Assessment Appeals Committee shall be appointed by the Director as a standing committee for the purposes of hearing appeals pursuant to this regulation. The Committee shall comprise two Instructors and the Director (save that where the Director has acted as Instructor in relation to a relevant assessment, the Director shall appoint another person, who may be an Instructor, in his or her place).
- (2) A trainee who receives a Competent or Not Yet Competent grade for a skills assessment, supplementary assessment, or a further skills assessment, or a trainee who has been determined under regulation 4 not to have participated in a seminar or part of a seminar, may appeal to the Assessment Appeals Committee against that grade or determination on any one or more of the following grounds -
  - (a) that any relevant criterion set by the Director for grading the assessment has not been correctly applied;

- (b) that the trainee's performance in the assessment was affected by accident, illness, disability, family bereavement, or personal stress or otherwise;
  - (c) that, in the case of a skills assessment, an arithmetical miscalculation was made in arriving at the grade;
  - (d) that, where a skills assessment has been graded Not Yet Competent under regulation 5, work is not copied work;
  - (e) that, where a skills assessment has been graded Not Yet Competent under regulation 6, the trainee has not disclosed or received or discussed information;
  - (f) that, where a trainee has been determined not to have participated in a seminar or part of a seminar, there is evidence to indicate that the trainee has participated in the seminar or part thereof, as the case may be.
- (3) A trainee who makes an appeal must -
- (a) apply to the Assessment Appeals Committee in writing within 21 days of receiving notice of the grade;
  - (b) enclose the fee (if any) stated by the Provider in its handbook or course materials which cover the period of that intake, to be payable for each assessment appealed against;
  - (c) state which of the grounds in regulation 19(2) is the basis for the appeal; and
  - (d) if one of the grounds stated is that the trainee's performance in the assessment was affected by accident, illness, disability, family bereavement or personal stress or otherwise, enclose documentary evidence such as letters from a doctor, or health-care or counselling professional, or police officer, or other independent person.
- (4) The Assessment Appeals Committee may -
- (a) grant the trainee a further opportunity to complete the assessment; or
  - (b) change the grade of the assessment to Merit or Competent, or, in the case of separate Negotiation or Advocacy assessments, change the grade to a Pass; or
  - (c) grant to the trainee the opportunity to repeat the whole course; or
  - (d) decline the appeal.

- (5) If the Assessment Appeals Committee grants the trainee a further opportunity to complete the assessment under regulation 19(4)(a) or, in the case of separate Negotiation and Advocacy assessments, changes the grade to a pass, or changes the grade of the assessment to Merit or Competent, under regulation 19(4)(b), the trainee will receive a refund of the fee for the appeal against that assessment for appeals under regulations 19(2)(a),(c),(d),(e) and (f) inclusive, but not for an appeal under regulation 19(2)(b).
- (6) If the Assessment Appeals Committee grants the trainee an opportunity to complete the assessment under regulation 19(4)(a), the Director will:
  - (a) arrange for the trainee to complete the assessment as soon as practicable after the trainee has been notified of the result of the appeal; and
  - (b) notify the trainee of the date for the assessment to be completed.

**[Amended 2005]**

## **Review**

### **20 Re-admission Committee**

- (1) There shall be a Re-admission Committee appointed by the New Zealand Council of Legal Education and constituted from time to time as necessary, which shall comprise—
  - (a) the Chair of the New Zealand Council of Legal Education; and
  - (b) two other persons nominated by the Chair of the New Zealand Council of Legal Education, one of whom must be a law practitioner and the other of whom must be a law teacher.
- (2) A trainee who is unsuccessful on an appeal to the Assessment Appeals Committee under regulation 19 may appeal to the Re-admission Committee.
- (3) A trainee who wishes to apply for an appeal must -
  - (a) apply in writing to the Re-admission Committee within 21 days of the date the intake finishes, and
  - (b) enclose the fee prescribed by and payable to the New Zealand Council of Legal Education.
- (4) The Re-admission Committee, which may consider any of the relevant grounds set out in regulation 19(2) or any other ground raised by the trainee on appeal to the Re-admission Committee, may:
  - (a) grant the trainee a further opportunity to complete one or more skills assessments; or

- (b) change the grade of assessment to Merit or Competent or, in the case of Negotiation or Advocacy assessments, change the grade to a Pass; or
  - (c) grant the trainee the opportunity to repeat the whole course; or
  - (b) decline the application.
- (5) Every decision made by the Re-admission Committee shall be final.

**[Amended 2005, repealed and replaced 2006]**

## **Miscellaneous**

### **21 Application for extension of time**

A trainee may apply to the Director to extend the time within which that trainee can make an application or an appeal under these Regulations and the Director may at his or her discretion extend the time.

### **22 Revocation**

The Professional Legal Studies Course Regulations 2003 are revoked.

## **SCHEDULE**

Fee Prescribed by Regulation 20(3)(b)  
\$100.00

**[Added 2006]**

**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 January 2005.**

**Chief Executive  
New Zealand Council of Legal Education  
1 August 2008**