

018A

Related Policies for Continuing Professional Development Rules 2008 – v2.0

Introduction

A number of specific policies relating to the interpretation of the Continuing Professional Development (CPD) Rules 2008 have been adopted by the Legal Services Board.

These policies underpin the Enforcement and Compliance Policy 018 v1.0 by providing interpretative guidance to the CPD Rules 2008.

Policy

1. Practitioners who hold a Victorian Practising Certificate and practise or reside interstate or overseas

All legal practitioners who hold a current Practising Certificate issued in Victoria are required to complete 10 CPD units every CPD year. Practitioners who complete the equivalent of 10 CPD units by undertaking CPD activities in the State or Country that they practise or reside in, during a CPD Scheme year, are deemed to have complied with their obligations under the Victorian CPD Scheme for that CPD year.

2. Completion of compulsory CPD units by practitioners who practise/reside overseas (not interstate)

Practitioners who reside or practise overseas and are the holders of a current Victorian practising Certificate are required to complete the compulsory CPD units of Ethics and Professional Responsibility, Professional Skills, Substantive Law and Practice Management and Business Skills. In view of the geographical location, practitioners are given the opportunity to complete the compulsory CPD units as follows:

In reference to the compulsory CPD units, practitioners would be deemed to have complied with the CPD Rules 2008 if they undertake the equivalent of CPD units in the country that they reside or practise in.

Practitioners who hold a current Victorian practising Certificate and reside or practise overseas may undertake CPD unit's online.

3. A legal practitioner ceases practice as a legal practitioner and commence practice as a sole practitioner (barrister)

In circumstances where a legal practitioner held a Practising Certificate for part or the whole of a CPD Year, and during that CPD Year the legal practitioner ceased practice as a legal practitioner and commenced practice as a barrister whilst continuing to hold a current Practising Certificate as a legal practitioner, the CPD activities undertaken pursuant to the CPD Rules of the Law Institute by the legal practitioner while practising as legal practitioner are CPD activities for the purposes of compliance with the CPD Rules of the Law Institute.

For the remainder of that CPD year the sole practitioner's CPD requirements will be pro-rata'd under the Bar's CPD Rules 2008.

4. Sole practitioners (barristers) who cease practice as a barrister and commence practice as a legal practitioner during a CPD Year

In circumstances where a sole practitioner ceases practice as a barrister and commences practice as a legal practitioner during a CPD Year, the CPD activities undertaken pursuant to the CPD Rules of the Victorian Bar by the legal practitioner while practising as a barrister are CPD activities for the purposes of compliance with the CPD Rules of the Law Institute.

For the remainder of that CPD year the legal practitioner requirements will be pro-rata'd under the Law Institutes CPD Rules 2008.

5. Preparation of submissions by legal practitioners

The preparation of submissions or the undertaking of research for the purposes of preparation of submission/submissions does not constitute a CPD activity entitling legal practitioners to claim CPD units under the CPD Rules 2008, unless it is a submission on matters relating to the practice of law.

6. Passive reading is not valid CPD activity

Passive reading is not considered appropriate CPD activity.

7. Part exemption

Exemptions granted on a pro rata basis, will be rounded up to the nearest whole number if the exemption granted is .5 or greater.

Exemptions granted on a pro rata basis, will be rounded down to the nearest whole number if the exemption granted is less than .5.

8. Part-time employment

That part-time employment of a legal practitioner does not amount to 'special circumstances' for the purposes of an exemption.

9. Compulsory CPD

The reference to granting of exemptions "in whole or in part" is taken to include reference to granting of exemptions for the compulsory CPD units in each of the four compulsory fields.

10. Granting of exemptions greater than 6 CPD units

Exemptions greater than 6 CPD units may be granted to practitioners who may be absent from practice for the whole or for part of a CPD year.

If the exemption granted for a CPD year is to the extent of 10 CPD units, the practitioner is fully exempt from compliance the CPD rules.

If the exemption granted for a CPD year is greater than 6 CPD units however less than 10 CPD unit:

- The practitioner is required to complete 4 CPD units, 1 CPD unit in each of the compulsory fields.
- If the exemption granted is to the extent of 7, 8 or 9 CPD units, the exempted practitioner is required to complete their outstanding CPD units in the compulsory fields.

The exempted practitioner may exercise his/her discretion in which compulsory fields he/she will complete the remaining CPD units.

11. Volunteer legal practitioners

The provision of legal services by practitioners as volunteer solicitors or duty solicitors at a law firm, Victoria Legal Aid or at a Community Legal Centre does not constitute a CPD activity entitling legal practitioners to claim CPD units under the CPD Rules 2008.

12. Supporting documentation required to be produced by practitioners for purposes of the CPD Scheme Audit

Practitioners selected for the an Audit during a CPD year will be required to provide evidence in support of completion of the CPD Scheme obligations for the CPD Year. Supporting documentation may consist of the following:

- receipts of payment of CPD Scheme activities;
- list of attendances records;
- attendances confirmation;
- copies of presentation notes;
- copies of enrolment records;
- copies of Certificate of Completion of CPD Scheme activities.

13. Return from extended leave, including parenting and sabbatical leave

Upon a practitioner's return from extended leave, such as parenting or sabbatical leave, the practitioner must complete all outstanding CPD points as follows:

- Where a practitioner returns to practice by 31 December, he/she must complete the outstanding CPD points (CPD units) and the CPD points (CPD units) for the CPD year of his/her return to active practice, no later than the end of the then current CPD year, ie by 31 March.
- Where a practitioner returns to practice on or after 1 January, he/she must complete the outstanding CPD points (CPD units) and the CPD points (CPD units) for the CPD year of his/her return to active practice, within (3) months of the date of return to practice. (For example, if a practitioner returns to practice on 10 January 2009, he/she must complete the outstanding CPD points (CPD units) and the 1 CPD point (CPD unit) for the CPD year ending 31 March 2009, by 10 April 2009).

Outstanding CPD points (CPD units) are those points (units) a practitioner is required to do subject to pro-rata for each CPD Year of his/her absence from practice. The CPD pro-rata calculation is based on the number of months the practitioner was in active practice during each CPD year.

Outstanding CPD points (CPD units) do not include those CPD points (CPD units) that the practitioner needs to complete for the CPD year of their return to practice.

14. Foreign language courses

Foreign language courses do not constitute a valid CPD activity.

15. CPD courses completed via correspondence or online with no contact time

Postgraduate studies and CPD courses/activities, which are relevant to the practitioner's legal practice, completed via correspondence and/or online with no contact time and/or physical attendance by legal practitioners, are CPD activities for the purposes of compliance with the CPD Rules 2008.

For postgraduate studies completed via correspondence and/or online, a practitioner can claim a maximum of 5 CPD points (CPD units) per subject, completed in the relevant CPD year.

For online CPD courses/activities a practitioner can claim a maximum of 7 CPD points (CPD units) per CPD year.
