

PRACTICE NOTE SC Gen 8

Supreme Court – Admission and enrolment under the Mutual Recognition principles

Commencement

1. This Practice Note commences on 15 December 2005.

Application

2. This Practice Note applies to all applications to the Court under mutual recognition principles by a lawyer to be admitted to the local Roll of Lawyers in NSW.

Definitions

3. In this Practice Note:

Act means the *Mutual Recognition Act 1992 (Cth)*

Trans-Tasman Act means the Trans-Tasman Mutual Recognition Act 1997

SC Act means the *Supreme Court Act 1970*

SCR means the *Supreme Court Rules 1970*

State means *includes the Australian Capital Territory, the Northern Territory and the country of New Zealand.*

UCPR means the *Uniform Civil Procedure Rules 2005*

Introduction

4. The Act and the Trans-Tasman Act allow a person, who is registered for an occupation in a State or New Zealand to obtain registration for the equivalent occupation in any other State to which the Act applies.

Mutual Recognition Act 1992.

5. Persons of an equivalent occupation in another State may apply under the Act for admission as a lawyer to the local Roll in this State. Application for registration is by way of a Notice of Application in the form of Annexure 1 to this Practice Note filed in the Common Law Division enclosing the relevant documents as required by Part 65C of the SCR.
6. Persons seeking registration under the Act should consider the national practising scheme established under the *Legal Profession Act 2004*. In most cases, persons are not required to be admitted as a lawyer on the local Roll prior to the issue of a practising certificate in New South Wales by either the Bar Association of New South Wales or the Law Society of New South Wales. Advice on this aspect should be sought from the relevant professional bodies.
7. Applications under mutual recognition principles for the purposes of the issue of a practicing certificate under the Act should be made directly to the relevant professional bodies in New South Wales.
8. Practitioners in other States should also consider the effect of the *Legal Profession Act 2004* as to whether they can practice in New South Wales on the basis of their existing

practicing certificate in another State.

Trans-Tasman Mutual Recognition Act 1997

9. Persons of an equivalent occupation in New Zealand may apply under the Trans-Tasman Act for admission as a lawyer to the local Roll in this State. Application for registration is by way of a Notice of Application in the form of Annexure 1 to this Practice Note filed in the Common Law Division enclosing the relevant documents as required by Part 65C of the SCR.

10. Once admitted as a lawyer on the local Roll in New South Wales, an application under mutual recognition principles for the purposes of the issue of a practising certificate should be made to the relevant professional bodies in New South Wales.

Filing of notices and other documents

11. The following documents must be filed at the Court:

- a notice under the Act, incorporating a statutory declaration under the *Statutory Declarations Act 1959* of the Commonwealth. The applicant and the person taking the declaration should sign the notice at the bottom of each page;
- an Oath of Office; and
- an affidavit of service.

12. Samples of the Notice of Application, Statutory Declaration, Oath of Office and Affidavit of Service are attached as annexures. These samples are designed for routine cases. In cases having unusual aspects, applicants should consult the SC Act, UCPR and the SCR in the same way as any party involved in proceedings in the Court.

Service of notices and other documents

13. The Court rules require service of the Notice of Application on the Legal Profession Admission Board, the New South Wales Bar Association, and the Law Society of New South Wales. These bodies may be served with the notice on, or up to 14 days prior to, the day of filing the notice. An affidavit of service of the notice on these bodies must be filed with, or within 14 days of filing, the notice. The Oath of Office may be sworn up to 14 days prior to filing the notice and can be filed at the same time as, or up to 14 days after the notice is filed.

J J Spigelman AC
Chief Justice of New South Wales
15 December 2005

Related Information

Practice Note SC Gen 8 was issued and commenced on 15 December 2005.

Amendment History.

This Practice Note replaces Practice Note SC Gen 8 issued on 17 August 2005.
Practice Note SC Gen 8 issued on 17 August 2005 replaced Former Practice Note No. 82 on 17 August 2005.

See also:

Supreme Court Act 1970

Supreme Court Rules 1970, particularly:

- *Part 1, rule 8*
- *Part 61*
- *Part 65C, rule 4*

Uniform Civil Procedure Rules 2005, particularly:

- *Rules 4.2-4.7 and 4.10*
- *Rules 10.5 and 10.20-22*
- *Rule 10.27*

Annexure 1

***NOTICE UNDER THE MUTUAL RECOGNITION ACT 1992 (COMMONWEALTH)**
***NOTICE UNDER THE TRANS-TASMAN MUTUAL RECOGNITION ACT 1997**
(COMMONWEALTH)

COURT DETAILS

Court	Supreme Court of New South Wales
Registry	Sydney Registry
Division	Common Law Division
Case number	

APPLICANT

Plaintiff:	Peter John Smith
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FILING DETAILS

Filed for	Plaintiff
Address for service	5 Main Street Brisbane Queensland 4000

(insert email address)

1. I, PETER JOHN SMITH, seek admission and enrolment as a legal practitioner of the Supreme Court of New South Wales in accordance with the mutual recognition principle under the:

- a. *Mutual Recognition Act 1992* *; or
- b. *Trans-Tasman Mutual Recognition Act 1997* *.

2. My residential address is 1 Station Street Brisbane 4000 and my business address is 5 Main Street Brisbane 4000.

3. In this notice, unless the subject matter otherwise requires, each of the following expressions has the same meaning which it has in the Act):

"equivalent";
"mutual recognition principle";
"occupation";
"registration"; and
"substantive registration".

4. The information contained in this paragraph is given pursuant to the Act.

5. On dd/mm/yy I was admitted as a [barrister, or solicitor, or solicitor and barrister, or legal practitioner] of the Supreme Court of [Queensland] and my name is entered on the roll of barristers [or as the case may be] kept by or on behalf of that Court.

6. Annexed and marked with the letter "A" is a certificate evidencing my admission which complies with Part 65C, rule 4(2)(f) of the *Supreme Court Rules 1970*.

7. I have substantive registration in the following State(s) for the occupation(s) equivalent to the occupation referred to in paragraph 4 - [List the other State(s)]

OR

I do not have substantive registration in any other State for the occupation equivalent to the occupation referred to in paragraph 4.

8. I am not the subject of disciplinary proceedings, or any preliminary investigations or action that might lead to disciplinary proceedings, in any State in relation to any occupation referred to in paragraph 4 [or paragraphs 5 or 6] (a "relevant occupation").

OR

I am the subject of the following disciplinary proceedings, preliminary investigations or action that might lead to disciplinary proceedings:

9. My registration for any relevant occupation in any State is not cancelled or currently suspended as a result of disciplinary action.

10. I am not otherwise personally prohibited from carrying on any relevant occupation in any State, and I am not subject to any special conditions in carrying on any relevant occupation, as a result of criminal, civil or disciplinary proceedings in any State.

11. I am not subject to any special conditions in carrying on any relevant occupation in any State.

OR

I am subject only to the following special conditions in carrying on any relevant occupation in any State - *[state special conditions and the State(s) where they apply]*

12. I consent to the making of enquires of, and the exchange of information with, the authorities of any State regarding my activities in the relevant occupation [or occupations], or otherwise regarding matters relevant to this notice.

SIGNATURE

Signature

Name

Capacity

Date

Applicant

Annexure 2

STATUTORY DECLARATION

COURT DETAILS

Court	Supreme Court of New South Wales
Registry	Sydney Registry
Division	Common Law Division
Case number	

APPLICANT

Plaintiff:	Peter John Smith
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FILING DETAILS

Filed for	Plaintiff
Address for service	5 Main Street Brisbane Queensland 4000

I, Peter John Smith, of 1 Station Street, Brisbane, in the State of Queensland, barrister, do solemnly and sincerely declare that the statements and other information contained in the above notice, **signed for identification on every page by me and by the person before whom this declaration is made**, are true and correct in every particular.

And I make this solemn declaration by virtue of the *Statutory Declarations Act 1959*, and subject to the penalties provided by that Act for the making of false statements in Statutory Declarations, conscientiously believing the statements contained in this Declaration to be true in every particular.

[signed] P J Smith

Declared at Brisbane the xth day of mm, yyyy.
Before me,

[signed]
M Jones
A Justice of the Peace
Reg. No.
[or as the case may be]

Annexure 3

OATH OF OFFICE

COURT DETAILS

Court	Supreme Court of New South Wales
Registry	Sydney Registry
Division	Common Law Division
Case number	

APPLICANT

Plaintiff:	Peter John Smith
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FILING DETAILS

Filed for	Plaintiff
Address for service	5 Main Street Brisbane Queensland 4000

I, PETER JOHN SMITH of 1 Station Street, Brisbane, in the State of Queensland, do swear [or solemnly, sincerely and truly declare and affirm] that if I am enrolled as a lawyer by the Supreme Court of New South Wales I will truly and honestly conduct myself in the practice of a lawyer of the Supreme Court of New South Wales and I shall faithfully serve as such in the administration of the laws and the usages of that State according to the best of my knowledge, skill and ability.

SO HELP ME GOD [or I DO]

[signed]
P J Smith

CERTIFICATE

I, Eric Black of 1 High Street, Brisbane, in the State of Queensland, certify that I duly administered the above oath on dd/mm/yy.

[signed]
E Black
Registrar of the Supreme Court of Queensland

Annexure 4

AFFIDAVIT OF SERVICE

COURT DETAILS

Court	Supreme Court of New South Wales
Registry	Sydney Registry
Division	Common Law Division
Case number	

APPLICANT

Plaintiff

FILING DETAILS

Filed for	Plaintiff
Address	5 Main Street Brisbane Queensland 4000

AFFIDAVIT DETAILS

Name

Address

Occupation

I say on oath *OR* affirm:

1. I am [role of the deponent].

2. I am over the age of 16 years.

3. I believe that the information contained in this affidavit is true.

4. On [date], I served [name of person served] with the following documents

5. I served the documents by
SWORN/AFFIRMED on

At

Signature of deponent

Signature of witness

Name of witness

Capacity of witness