

LEGAL PROFESSION UNIFORM CONTINUING PROFESSIONAL DEVELOPMENT (SOLICITORS) RULES 2015



- Enquiries concerning the CPD Rules should be directed to the Registry Compliance Officer: (02) 9926 0243
- Enquiries concerning courses run by The Law Society of New South Wales should be directed to Professional Development: (02) 9926 0250
- The CPD Rules can also be found on the Law Society's web site lawsociety.com.au

1. FREQUENTLY ASKED QUESTIONS

When does the CPD year commence and end?

The CPD year runs from 1 April to the 31 March the following year.

How many units do I need?

The requirement is 10 CPD units in each CPD year.

If you commence or recommence holding a practising certificate after the commencement of the CPD year you must complete, on a pro rata basis, the balance of the CPD units as set out below:

REAPPLICATION MONTH	CPD UNITS
April	10
May	9
June	8
July	7
August	6
September	5
October	4
November	3
December	2
January	1
February	0
March	0

Please note that where a partial exemption or pro rata calculation applies, compulsory fields must be completed as part of the remaining units to be satisfied.

Please note that Members of Parliament are exempt from the CPD requirements for the period that they are Members of Parliament.

Do I need to keep a record?

Yes - you are required to maintain your own record of your CPD activities and also evidence in support of the CPD activities undertaken. The information and evidence should be kept for at least three years after the end of the CPD year in question.

How do I gain units and what are they worth?

Units may be gained through a variety of activities including:

- seminar/workshop/lecture/conference/discussion group/multimedia or web-based program = 1 unit per hour minus refreshment breaks (no cap)
- preparing/presenting CPD lectures or legal education = 1 unit per hour - maximum of 5 units
- private study of audio/visual material that is specifically designed for the purpose of updating a solicitor's knowledge and/or skills relevant to his or her practice needs = 1 unit per hour - maximum of 5 units

- research/preparation/editing of articles published in legal/non-legal publications = 1 unit per 1000 words - maximum of 5 units
- membership of a committee, taskforce or practice section of a professional association, designated local authority or the Law Council of Australia or of other committees, provided that the solicitor regularly attends its meeting, if the work performed on the committee, taskforce or practice section is of substantial significance to the practice of law and is reasonably likely to assist the solicitor's professional development

Are there compulsory units that I need to attain every year?

Unless exempted in whole or in part from attaining CPD units, you must include at least one (1) unit in each of the following fields every CPD year:

- ethics and professional responsibility
- practice management and business skills
- professional skills
- substantive law

(Please see section 2 for a non exhaustive list of topics by compulsory fields.)

How do I know if I can claim units for a course and know how many units a course is worth?

The Law Society does not accredit courses. The CPD scheme is based on self-assessment of the educational activity by the practitioner. If you find it extends your knowledge and skills in areas that are relevant to your immediate or long term needs in relation to your professional development and practice of law then you can claim the activity for CPD units. You should refer to Rule 7 for the criteria in assessing an activity and Rules 8 and 9 for the amount of units that can be claimed for an activity.

I am a lecturer at a university/TAFE/Higher education institution, can I claim lecturing as part of my CPD requirements?

YES. You may claim teaching as part of your CPD requirements. Under Rule 8.1.3 you may claim preparation and presentation of written or oral material forming part of the formal instruction within any one course of continuing legal education or formal legal education. There is a cap of five units. You should be aware that you also need to comply with the compulsory fields each year.

I am undertaking postgraduate studies in law. Can I claim the course for my CPD requirements?

YES. You can claim participation in postgraduate studies in law as part of your CPD requirements under Rule 8.1.5. The accrual rate is as per participation in a course/seminar/conference that is, 1 hour = 1 unit of CPD. You should be aware that you also need to comply with the compulsory fields each year.

I am a provider of CPD courses. Do I have to get accreditation from the Law Society of New south wales?

NO. The Law Society does not have an accreditation process. Please see the Rules for the basic criteria that courses should meet. The "Notes for Providers" section in this information pack details the wording that the Law Society prefers providers to use when advertising educational activities.

How does the Law Society know that I have complied?

Every year you will receive an application for renewal of a practising certificate form by the end of April. On that form you make a declaration as a solicitor as to whether you have complied with the requirements or not. Please ensure you keep evidence of your compliance for 3 years. If you are selected as part of the random audit, you will be required to provide evidence.

What if I have not completed enough units by 31 March?

If you find upon checking your records that you have not attained the necessary units you may submit a written application to the Registry Compliance Officer at the Law Society Registry explaining why you have been unable to obtain the necessary units and requesting an extension of time. An application form for request of an extension of time is found in the Forms section of the [Law Society website](#).

Am I eligible for an annual or partial exemption from CPD?

There are strict criteria for eligibility for exemptions detailed in Rule 16 of the CPD Rules. An application must be made in writing to the Registry Compliance Officer at the Law Society detailing the extenuating circumstances where an exemption is requested. An application form for exemption is found in the Forms section of the [Law Society website](#).

Do I need to comply with CPD as I am currently practising overseas?

YES - all practitioners holding current practising certificates and practising as solicitors overseas, are required to undertake CPD wherever they practice unless exempted under Rule 16. Therefore you need to keep a record of what educational activities you are undertaking, the names of providers, the date of the activity and the number of units you are claiming.

Can I carry units over from one CPD year to the next?

YES. Units, to the maximum of 3, accrued in the period 1 January – 31 March in any year may be carried forward into the following CPD year but can only be counted in one CPD year.

2. NON-EXHAUSTIVE LIST OF TOPICS BY COMPULSORY FIELDS

(Adapted from the National CPD Taskforce Model for Australian Lawyers) - While this predates the Uniform Law it is helpful as a guide to where topics may fit

This non-exhaustive list of topics is also non-prescriptive and is provided for illustrative purposes. The teaching of these compulsory fields may be done pervasively, for example, the field of Ethics and professional responsibility may be taught within a substantive law seminar. While providers may indicate the compulsory field to which their CPD activity belongs, it is up to the practitioner to identify which compulsory field it applies to from their perspective.

Ethics and professional responsibility examples of topics

- Conflicts of interest
- How to identify an ethical issue
- Communicating direct with third parties
- Lawyer's duties to the court
- Ethics within a technical legal context

Practice management and business skills examples of topics

- Risk management
- File management
- Cost rules
- Business planning
- Financing a practice
- Effective use of technology

Professional skills examples of topics

- Communication and interpersonal skills
- Client interviewing
- Plain English drafting
- Negotiation and mediation skills
- Career and personal development
- Advocacy
- Legal research

SUBSTANTIVE LAW

Topics relating to solicitor's areas of practice.

3. NOTES FOR COURSE PROVIDERS

The system of self-assessment underpinning the CPD scheme requires individual practitioners to determine the number of units for which he/she will claim credit. The Society suggests that providers use one of the following statements on brochures in preference to making any specific reference to CPD points or units.

Version A - long version

Seminars and other CPD activities are not accredited by The Law Society of New South Wales. Under the CPD Rules, if this particular educational activity is relevant to your immediate or long term needs in relation to your professional development and practice of the law, then you should claim one "unit" for each hour of attendance, refreshment breaks not included.

The annual requirement is ten (10) units each year from 1 April to 31 March.

Version B - short version

If this particular educational activity is relevant to your immediate or long term needs in relation to your professional development and practice of the law, then you should claim one "unit" for each hour of attendance, refreshment breaks not included.

4. THE CPD RULES

Legal Profession Uniform Continuing Professional Development (Solicitors) Rules 2015 under the Legal Profession Uniform Law (NSW)

1. Citation

- 1.1 These Rules are designated as Legal Profession Continuing Professional Development Rules and may be cited as the Legal Profession Uniform Continuing Professional Development (Solicitors) Rules 2015.

2. Commencement

- 2.1 These Rules come into operation on 1 July 2015.

3. Objective

- 3.1 The objective of these Rules is to provide the minimum requirements for continuing professional development for solicitors.

4. Authorising provisions

- 4.1 These Rules were developed by the Law Council of Australia in accordance with section 427 of the Legal Profession Uniform Law and are made by the Legal Services Council under Part 9.2 of that Law.

5. Definitions

- 5.1 In these Rules:

"CPD" means continuing professional development;

"CPD activity" means an activity which meets the requirements of rule 7 (CPD content) and rule 8 (CPD format);

“CPD unit” has the meaning given by rule 9 (CPD units);

“CPD year” means the year beginning on 1 April and ending on 31 March the following year;

“Designated local regulatory authority” means a person or body specified or described in a law of this jurisdiction for the purposes of Chapter 3 of the Uniform Law;

“Uniform Law” means the Legal Profession Uniform Law as applied in a participating jurisdiction.

6. CPD obligations

6.1 Unless exempted in whole or in part by the designated local regulatory authority under rule 16 (Exemptions), or unless a pro rata calculation applies under rule 10 (Pro rata calculations), a solicitor must complete 10 CPD units in each CPD year including at least one CPD unit in each of the following fields:

- 6.1.1 ethics and professional responsibility;
- 6.1.2 practice management and business skills;
- 6.1.3 professional skills;
- 6.1.4 substantive law.

6.2 Where a part exemption under rule 16 (Exemptions) or a pro rata calculation under rule 10 (Pro rata calculations) applies the compulsory fields must be completed as part of the remaining CPD units.

7. CPD content

7.1 Each CPD activity undertaken by a solicitor must be an activity:

- 7.1.1 of significant intellectual or practical content and must deal primarily with matters related to the solicitor’s practice of law; and
- 7.1.2 conducted by persons who are qualified by practical or academic experience in the subject covered; and
- 7.1.3 that extends the solicitor’s knowledge and skills in areas that are relevant to the solicitor’s practice needs or professional development.

8. CPD format

8.1 A CPD activity may consist of:

- 8.1.1 a seminar, workshop, lecture, conference, discussion group, multimedia or web-based program, private study of audio/visual material or any other educational activity; or
- 8.1.2 the research, preparation or editing by a solicitor of:
 - 8.1.2.1 an article published in a legal publication; or
 - 8.1.2.2 a legal article published in a non-legal publication; or
 - 8.1.2.3 published Law Reports or other legal services; or
- 8.1.3 the preparation and/or presentation by a solicitor of written or oral material to be used in a CPD activity or in other forms of education provided to solicitors and/or to other professionals and/or to other persons including those undertaking practical or supervised legal training; or
- 8.1.4 membership of a committee, taskforce or practice section of a professional association, designated local regulatory authority or the Law Council of Australia or of other committees, provided that the solicitor regularly attends its meetings, if the work performed on the committee, taskforce or practice section is of substantial significance to the practice of law and is reasonably likely to assist the solicitor’s professional development; or

8.1.5 postgraduate studies relevant to a solicitor’s practice needs.

8.2 Private study does not constitute CPD activity for the purpose of these Rules unless it involves the private study of audio/visual material specifically designed for the purpose of updating a solicitor’s knowledge and/or skills relevant to his/her practice needs.

9. CPD units

9.1 CPD unit means:

- 9.1.1 in relation to a CPD activity referred to in rule 8.1.1, 8.1.3 and 8.1.5, one hour of the activity;
- 9.1.2 in relation to a CPD activity referred to in rule 8.1.2, 1000 words of the article;
- 9.1.3 in relation to a CPD activity referred to in rule 8.1.4, two hours of the activity.

9.2 In calculating the relevant CPD units of CPD activity in respect of a CPD year, the total must not include:

- 9.2.1 more than 5 CPD units of CPD activity referred to in rule 8.1.2;
- 9.2.2 more than 5 CPD units of CPD activity referred to in rule 8.1.3;
- 9.2.3 more than 3 CPD units of CPD activity referred to in rule 8.1.4;
- 9.2.4 more than 5 CPD units of CPD activity referred to in rule 8.2.

9.3 Solicitors who successfully complete a specialist accreditation assessment process will be deemed to have completed 10 CPD units in the year of their completion.

10. Pro rata calculations

10.1 A solicitor who commences or recommences legal practice on or after the start of a CPD year must complete on a pro rata basis during the balance of the CPD year such CPD units as are set out below:

REAPPLICATION MONTH	CPD UNITS
April	10
May	9
June	8
July	7
August	6
September	5
October	4
November	3
December	2
January	1
February	0
March	0

11. Application of CPD units to the following CPD year

11.1 A maximum of 3 CPD units accrued in the period 1 January to 31 March in any CPD year may be carried forward into the following CPD year but can only be counted in one CPD year.

12. Record keeping

- 12.1 A solicitor must maintain for each CPD year:
- 12.1.1 a record of his or her engagement in CPD activities; and
 - 12.1.2 evidence in support of the CPD activities undertaken.
- 12.2 A solicitor must retain the information referred to in rule 12.1.1 and the evidence in support referred to in rule 12.1.2 for at least three years after the end of the CPD year to which the CPD record and evidence in support relate.

13. Annual certification of CPD activities

- 13.1 At the same time as applying for renewal of his or her practising certificate, a solicitor must certify to the designated local regulatory authority whether the solicitor has complied with these Rules in respect of the CPD year last ended.

14. Verification of CPD activities

- 14.1 The designated local regulatory authority may at any time require a solicitor to verify within 21 days whether he or she has complied with these Rules by:
- 14.1.1 producing to the designated local regulatory authority:
 - 14.1.1.1 any records required to be kept by the solicitor under these Rules; and
 - 14.1.1.2 any other evidence in the solicitor's possession or control that are relevant to the solicitor's compliance with these Rules; and
 - 14.1.2 giving the designated local regulatory authority:
 - 14.1.2.1 a statement of the solicitor's reasons for claiming that any activities undertaken by the solicitor satisfy any requirement for CPD activities under these Rules; and
 - 14.1.2.2 particulars of any exemption granted by the designated local regulatory authority under these Rules.
- 14.2 A requirement of the designated local regulatory authority under this rule may be given to a solicitor only in relation to the current CPD year or any of the three previous CPD years.

15. Rectification of non-compliance

- 15.1 This rule applies if:
- 15.1.1 a solicitor certifies under rule 13 (Annual certification of CPD activities) that he or she has not complied with these Rules; or
 - 15.1.2 a solicitor complies with a requirement under rule 14 (Verification of CPD activities) and the designated local regulatory authority is not satisfied that the solicitor has complied with these Rules; or
 - 15.1.3 a solicitor fails to comply with rule 13 (Annual certification of CPD activities) or rule 14 (Verification of CPD activity).
- 15.2 The designated local regulatory authority may give written notice to the solicitor requiring him or her to submit a plan to the designated local regulatory authority within 21 days setting out the steps that the solicitor intends to take to rectify the noncompliance within 90 days after the plan is submitted to the designated local regulatory authority.
- 15.3 A solicitor must comply with a notice given to him or her under rule 15.2 and with a plan submitted to the designated local regulatory authority under that rule.
- 15.4 A notice of the designated local regulatory authority under this rule may only be given to a solicitor in relation to the current CPD year or any of the three previous CPD years.
- 15.5 The designated local regulatory authority shall have discretion to allow solicitors every opportunity to rectify any failure to comply, or if appropriate, apply for exemption.

16. Exemptions

- 16.1 On application by a solicitor, the designated local regulatory authority may exempt the solicitor in whole or in part from any requirement to undertake CPD activities imposed by these Rules.
- 16.2 An application for exemption must be in writing.
- 16.3 Without limiting the grounds on which the designated local regulatory authority may grant an exemption, an exemption may be granted in whole or in part on the following grounds:
- 16.3.1 illness or disability;
 - 16.3.2 the location of the solicitor's legal practice;
 - 16.3.3 the absence of the solicitor from legal practice for example due to parenting leave or unemployment;
 - 16.3.4 the solicitor has reduced hours of practice owing to part time or casual employment;
 - 16.3.5 the solicitor's circumstances are such that the solicitor is required to hold a practising certificate but is not engaged in legal practice;
 - 16.3.6 the solicitor has been in practice for a period exceeding 40 years and does not practise as a principal;
 - 16.3.7 hardship or other special circumstances.
- 16.4 Exemptions relating to rule 16.3.3, 16.3.4 and 16.3.5 will generally be granted on a pro rata basis.
- 16.5 The designated local regulatory authority may impose any conditions it thinks appropriate on an exemption under this rule.
- 16.6 A solicitor must comply with any conditions imposed on an exemption under this rule.

