



**Online lodgement**

31 May 2024

Jobs and Skills Australia  
Department of Employment and Workplace Relations  
GPO Box 9828  
Canberra ACT 2601

Dear all

**Draft Core Skills Occupations List**

I write on behalf of Law Firms Australia (**LFA**) in relation to the draft core skills occupations list (**the CSOL**). LFA represents Australia's leading multi-jurisdictional law firms, Allens, Ashurst, Clayton Utz, Corrs Chambers Westgarth, DLA Piper Australia, Herbert Smith Freehills, King & Wood Mallesons, MinterEllison and Norton Rose Fulbright Australia. LFA is also a constituent body of the Law Council of Australia, the peak representative organisation of the Australian legal profession.

Of relevance to LFA members, and it may be reasonably expected, to other medium to large Australian law practices as well, are the categories '271299 Judicial and Other Legal Professionals' (**the other legal professionals category**) and '271311 Solicitor' (**the solicitor category**). The former is listed for consultation, whilst Jobs and Skills Australia (**JSA**) has indicated that the latter will be included in the final CSOL. For the reasons below, LFA submits:

- that the other legal professionals category should be retained in the final CSOL, and
- that the solicitor category should be adapted to include lawyers qualified to practise in a foreign jurisdiction.

**1. Other legal professionals category**


- 1.1 The retention of the other legal professional category in the final CSOL is important to many commercial law practices for two primary reasons.
- 1.2 First, the other legal professionals category is critical in respect of solicitors qualified to practise in a foreign jurisdiction, such as England and Wales, that are seeking to work in an Australian law firm but are not yet admitted to the Australian legal profession.
- 1.3 To practise Australian law, a person must hold a current Australian practising certificate.<sup>1</sup> Practising certificates can only be conferred on a person admitted to the Australian legal profession, and to be admitted in a Uniform Law jurisdiction, a person must obtain a compliance certificate from a relevant admitting authority.<sup>2</sup>

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<sup>1</sup> Legal Profession Uniform Law, ss 6 and 10. The Legal Profession Uniform Law (**the Uniform Law**) applies in New South Wales, Victoria and Western Australia, however there are provisions to the same effect in the Legal Profession Acts of the other Australian jurisdictions.

<sup>2</sup> In Uniform Law jurisdictions, either the Legal Profession Admission Board in New South Wales, the Victorian Legal Admissions Board, or the Legal Practice Board of Western Australia.





1.4 The critical step for a foreign qualified lawyer in this process is the grant of a compliance certificate from a Board.<sup>3</sup> The following prerequisites apply to the issuance of a compliance certificate:<sup>4</sup>

- (a) that the person has attained the academic qualifications specified under the Admission Rules (**the academic prerequisite**),
- (b) that the person has satisfactorily completed the practical legal training requirements specified in the Admission Rules for the purposes of this section (**the PLT prerequisite**), and
- (c) that the person is a fit and proper person to be admitted to the Australian legal profession.

1.5 Whilst it is open to an admitting authority to provide exemptions to a foreign qualified lawyer for the academic prerequisite or the PLT prerequisite, or both, the common practice of admitting authorities is to direct foreign qualified lawyers to complete additional study through an Australian legal institution.<sup>5</sup> For instance, a foreign qualified lawyer may be directed to complete several Priestly 11 subjects (such as Australian Constitutional Law, Administrative Law, Contract Law, and Equity and Trusts) in respect of the academic prerequisite.

1.6 Law practices will often employ foreign qualified lawyers subject to such a direction whilst they complete the relevant additional study, on the expectation that they will then be granted admission to the Australian profession and an Australian practising certificate. During that time of study, these foreign qualified lawyers do not themselves engage in legal practice or give legal advice, but undertake general work under the supervision of Australian qualified practitioners. The other legal professional category must underpin those foreign qualified lawyers' working rights as they are unable to rely upon the solicitor category without an Australian practising certificate.

1.7 Secondly, the other legal professional category captures many important quasi-legal roles within practices. These may include roles within digital legal delivery, innovation, and risks and conflicts teams. Such roles do not involve the practice of law, and therefore do not require the person filling the role to be admitted to the Australian legal profession, but often require, or greatly benefit from, being performed by somebody with legal experience.

1.8 If the other legal professional category was omitted from the final CSOL, it would greatly limit the ability of law practices to source and engage the best and most appropriately qualified candidates for such roles, especially in circumstances where the local availability or interest for

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<sup>3</sup> Uniform Law, s 19.

<sup>4</sup> Uniform Law, s 17.

<sup>5</sup> It should be noted for completeness:

- that foreign qualified lawyers may also seek conditional admission, but conditional admission: is only available in Uniform Law jurisdictions; is subject to a broad discretion exercised by admitting authorities, and; is not currently sought as often as full admission;
- that the Legal Services Council is undertaking a review of the admission of foreign lawyers, but it is not expected to alter the basic admission process described in this submission and;
- that the Legal Services Regulatory Dialogue, established by the Australia – United Kingdom Free Trade Agreement, will consider admission issues in Australian and United Kingdom jurisdictions.



such roles is scarce. This, in turn, would have a detrimental impact on services delivered to clients and employees at affected law practices.

2. **Solicitor category**

2.1 LFA supports the retention of the solicitor category in the final CSOL.

2.2 As noted above, however, most foreign qualified lawyers are not currently employed by law practices under this category as they are required to undertake additional study before being granted an Australian practising certificate. LFA submits that JSA should consider how this category could be adapted to include foreign qualified lawyers employed by an Australian legal practice that are completing, or intend to complete, directed study for local admission. In particular, JSA should consider licensing requirements in this category and/or the associated timeframes for compliance with licensing requirements. This is because, currently, if a 482 visa was granted to a foreign qualified lawyer in the solicitor category with licensing requirements, then they would be unlikely to obtain an Australian practising certificate within the relevant 'three months' timeframe, given that the process for requalification will usually take longer than three months.

Please let me know if LFA can provide any additional information that would be of assistance to JSA in its deliberations.

Yours faithfully

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Law Firms Australia

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