

The introduction of a CPD Scheme

A closer look at the position for Victorian solicitors



By Catherine Dwyer, Associate, Abbott Stillman & Wilson and Vice-President, Young Lawyers Section

One are the days where Victorian solicitors were able to undertake continuing professional development at their own discretion – from 1 April 2004 every Victorian solicitor (subject to certain exceptions) was obliged to participate in compulsory continuing professional development when the Continuing Professional Development Scheme Rules (Rules) came into operation pursuant to s72 of the *Legal Practice Act 1996* (Vic).¹

Who must comply with the Rules?

Every solicitor in Victoria who holds a current practising certificate even in circumstances where they are residing interstate or overseas.

The requirements pursuant to the Rules

Clause 1.1 of the Rules provides, *inter alia*, that:

- Continuing Professional Development (CPD) activities for the purposes of satisfying the requirements under the Rules include seminars, workshops, lectures, conferences, discussion groups, multimedia or web-based programs and written articles for publication;
- the CPD activities must demonstrate significant intellectual or practical content and they must deal with matters which are directly related to the practice of law;
- the CPD activities must be relevant to the solicitor's immediate or long-term requirements in relation to professional development and the practice of law; and
- every solicitor must achieve a value of 10 CPD Scheme units by undertaking CPD activities each year (subject to certain exceptions).

There are a number of activities which are not classified as CPD activities pursuant to the Rules and these are:

- private study; and
- engaging in legal practice for reward or on a voluntary basis.

Over the course of several years, every solicitor will be required to undertake compulsory CPD activities in the following areas:

- ethics – once every 3 years (2 CPD units);
- trust accounts – once every 3 years for solicitors who hold principal practising certificates and once every 5 years for solicitors who hold other practising certificates (2 CPD units); and
- equal opportunity – once every 5 years (2 CPD units).

How many CPD Scheme units does each CPD activity attract?

The private study of audio or video material which is designed for the purposes of updating the legal knowledge of a solicitor – 2 hours = 1 CPD unit and a solicitor may claim up to a maximum of 5 CPD units (c1.6);

Attending a seminar, workshop, lecture, conference, discussion group, multimedia or web-based program – 1 hour = 1 CPD unit (c1.7);

The preparation of written or oral material for the purpose of instructing within a CPD course – 1 hour = 1 CPD unit and a solicitor may claim up to a maximum of 5 CPD units (c1.8);

The presentation of written or oral material for the purpose of instructing in a CPD course – 1 hour = 1 CPD unit (c1.9);

A written article consisting of 1000 words or more which is published in a legal publication or another publication which is approved by the RPA – 1000 words = 1 CPD unit and a solicitor may claim up to a maximum of 5 units (c1.10);

Membership of a committee, taskforce or section of the RPA, Law Council of Australia or Section of the Law Institute of Victoria and attendance at regular meetings – 2 hours engaged in committee work = 1 CPD unit and a solicitor may claim up to a maximum of 3 CPD units (c1.11); and

Participation in the specialist accreditation program which is run by the Law Institute of Victoria – 10 CPD units (c1.4).

What are the exemptions to the Rules?

The RPA may exercise its discretion in granting an exemption from compliance with the Rules in

whole or in part, where such request is made in writing, in the following circumstances:

- where a solicitor has been in practice for more than 40 years and he or she has a practising certificate which entitles the solicitor to practice as an employee or where the solicitor is a Notary Public and the sole reason for holding a practising certificate is to act as a Notary (c1.12.1);
- where a solicitor's geographical location, physical disability or particular characteristics of practice may create hardships or difficulties in completing the requisite CPD units (c1.12.2); and
- where a solicitor has been absent from legal practice due to parental leave, unemployment or illness (c1.12.3).

A number of other exemptions exist pursuant to the Rules and these are:

- a solicitor who is employed by a firm or organisation which does not receive trust moneys is not obliged to undertake CPD activities in relation to trust accounts (c1.5);
- a solicitor who commences or recommences practice on or after July but before 1 January in the following year is only required to participate in CPD activities which will accumulate 5 CPD units (c1.13); and
- a solicitor who commences or recommences practice or on after 1 January but prior to 1 July in the same year is exempt from the Rules for the year ending 31 March in the year in which the solicitor commenced or recommenced practice (c1.14).

What is the effect of the Rules?

Solicitors will be obliged to keep a record of all CPD activities as all solicitors may be subject to random audits which will be conducted by the RPA to ensure compliance with the Rules. A failure to comply with the Rules is capable, depending on the circumstances, of being characterised as unsatisfactory conduct or misconduct.

It is recommended that all solicitors keep a detailed record of all CPD activities including the date of the activity, the CPD activity undertaken, the duration of the activity and the number of CPD units claimed for the CPD activity together with any

supporting documentation which will verify compliance with the Rules. Every solicitor will be obliged to provide certification that he or she has complied with the Rules when renewing his or her practising certificate (c1.15).

In circumstances where the requisite 10 CPD units have not been attained in the relevant year, a written application may be submitted by the solicitor to the CPD Scheme Committee requesting an extension of time for 90 days so that he or she can complete the necessary CPD units.

What is the cost of complying with the Rules?

There are a number of different scenarios where CPD activities can be combined to comply with the Rules, therefore attracting varying costs, and the following are a few examples (which are not intended to be exhaustive - *please see table below*).

Conclusion

From 1 April 2004, all Victorian solicitors should ensure that they are participating in adequate CPD

activities to achieve the requisite 10 units in order to comply with the Rules. Not only will participation in such activities ensure that in the event of random auditing by the RPA, solicitors are protected from the possibility of being found guilty of unsatisfactory conduct or misconduct, but it will also lead to the development of the solicitor's practice. ■

Continuing Professional Development (CPD) Scheme Rules 2004

<p>Attendance at 10 seminars of the Young Lawyers Annual Lecture Series 1 hour = 1 CPD unit \$55.00 per lecture x 10 = \$550 TOTAL COST = \$550.00 (10 units)</p> <p>Attendance at 5 seminars of the Young Lawyers Annual Lecture Series 1 hour = 1 CPD unit \$55.00 per lecture x 5 = \$275.00 (5 units) Membership of an LIV Committee - 6 hours (3 units) - no cost 2000 word article to be published (2 units) - no cost TOTAL COST = \$275.00 (10 units)</p> <p>Attendance at 2 seminars of the Young Lawyers Annual Lecture Series 1 hour = 1 CPD unit \$55.00 per lecture x 2 = \$110.00 (2 units) 2000 word article to be published (2 units) - no cost</p>	<p>Private study of video material - 4 hours (2 units) - no cost (unless hire fees)</p> <p>Attendance at discussion group such as CPA Insolvency and Reconstruction Committee 1 hour (1 unit) - no cost</p> <p>Preparation of a lecture for the purposes of the LIV or Leo Cussen - 2 hours (2 units) - no cost</p>	<p>Presentation of a lecture for the purposes of the LIV or Leo Cussen - 1 hour (1 unit) - no cost TOTAL COST = \$110.00 (10 units)</p> <p>2 x 2000 word articles to be published (4 units) - no cost</p> <p>Membership of an LIV Committee - 6 hours (3 units) - no cost</p> <p>Presentation/preparation of lecture - 2 hours (2 units) - no cost TOTAL COST = Nil (10 units)</p>
--	---	--

CPD Survey: Young Lawyers annual hours of attendance at CPD according to organisation size.

	< 2 hrs	2 - 10 hrs	11-20 hrs	> 20 hrs
Small	0	50%	50%	0
Medium	0	0	100%	0
Large	0	23.5%	53%	23.5%
Total	0%	23%	59%	18%

Specialist accreditation

Registrations close 18 June



Looking at ways to:

- increase your marketability;
- improve your practice; or
- have your extensive experience recognised by the Law Institute?

The Specialisation Scheme may give you the profile and recognition that you desire.

The Scheme gives members with more than five years work experience the opportunity to become recognised leaders in their fields.

The Scheme rewards members' highly developed skills and expertise with the Law Institute's Specialist Accreditation - a formal qualification recognised in Victoria and interstate.

More than 600 members have successfully completed the assessment requirements to date.

Fields of specialisation offered in 2004 include business law, commercial litigation, criminal law, immigration law, mediation, wills and estates, and workplace relations.

All participants gain 10 CPD units for completing the assessment process.

Detailed information on eligibility, performance standards and assessment criteria are available in the application guidelines, accessible online at www.liv.asn.au/specialists.

For further information visit the website at www.liv.asn.au/specialists

Tel: (03) 9607 9461 Email: special@liv.asn.au

