

PART B:
MAKING APPLICATION FOR ADMISSION TO THE COURT (for LOCAL APPLICANTS applying for admission to the legal profession in Tasmania)

This version of Part B is for the benefit of local applicants. It provides information, following on from the general information in Part A, about making an application for admission to the legal profession to the Court.

Applying to the Court for admission to the legal profession

The following lists the steps that must be undertaken to make an application to the Court for admission to the legal profession.

1. ***Preliminary preparations:*** Prior to lodging an application for admission with the Court prospective applicants should familiarise themselves with the requirements of such an application and make preparations to ensure that the application will be ready to go ahead when the time comes. These preparations should include:
 - applying to the Board for a certificate of eligibility for admission to the legal profession (The contact details for the Board are provided above under the heading “Admission to the Legal Profession in Tasmania”);
 - applying for a report from the Commissioner of Police setting out the prospective applicant’s criminal record (please note that the report must be a national police records check relating to criminal convictions in Australia, not just Tasmania and that reports take a number of weeks to be supplied but must not be prepared more than 6 months before the date of the swearing of the applicant’s affidavit - see rule 783AE(1)(a)(iii)(C) of the *Supreme Court Rules 2000*);
 - identifying and obtaining the consent of two acceptable deponents to provide affidavits as to character (see more detailed advice as to this below under the heading “The affidavits as to character”);

- preparing drafts of the notice of intention to apply for admission, the applicant's supporting affidavit, the affidavits as to character and other documentation relating to the application (see more detailed advice as to this below under the heading "Affidavit in support of the application for admission"); and
- if you wish to be represented for the application then identifying and seeking the consent of a legal practitioner who is willing to appear in Court to move your admission at such time as the application is heard. (It is the practice that applicants are represented by a legal practitioner. But it is not a legal requirement and applicants may appear unrepresented. Legal practitioners who co-ordinate and teach parts of the legal practice course often provide this service for students in the course).

2. Originating application:

- An application for admission is commenced by originating application to the Court (see rule 783AD(1) of the *Supreme Court Rules 2000*, and form 3 of the *Supreme Court Forms Rules 2000*).
- The order sought in the application should be something like:
"a.) That the applicant [applicant's name] be admitted to the legal profession."
- The Court's filing fee for an originating application for the purpose of admission is \$150.00.
- A date for the hearing of the application will be provided by the Court at the time that the application is lodged with the Court.
- Applicants should bring one (1) original and four (4) copies of the originating application to the Court at the time of lodgment. Of these the original is stamped and filed with the Court (the original); two copies are stamped and returned to the applicant for service; one copy is stamped and returned to the applicant to be provided to the legal practitioner moving the applicant's admission; and one copy is stamped and retained by the applicant for his or her records.

3. Notice of intention to apply for admission:

- Not less than one month, or more than three months before the listing of the application, notice of intention to apply for admission in the prescribed form

(see form 57BA *Supreme Court Forms Rules 2000*) must be published in two Tasmanian newspapers in accordance with rule 783AC of the *Supreme Court Rules 2000*.

- The rule also prescribes in which newspapers the notice should appear.
- It is usual for a number of prospective applicants, for example the students of the Tasmanian Legal Practice course, to place a notice of intention to apply for admission in the newspaper as a group, thereby sharing the cost. This is acceptable, however, it is of assistance to the court if each applicant highlights, or underlines his or her name in the notice annexed to his or her affidavit.

4. Supporting materials/ Evidence:

- As directed by rule 783AE(1) of the *Supreme Court Rules 2000* the application must be supported by affidavits and other documents being: an affidavit in support of the application for admission (see form 57BB of the *Supreme Court Forms Rules 2000*) including annexures; and two affidavits as to character (see form 57BC of the *Supreme Court Forms Rules 2000*) made by “acceptable deponents” (as to which, see rule 783AA). More detailed information to assist applicants to prepare their affidavits and to select acceptable deponents is provided below under the headings “The affidavit in support of the application for admission” and “The affidavit as to character”.
- Supporting affidavits may be lodged with the Court some time after the originating application has been filed, and the notice of intention to apply for admission has been published, but in sufficient time to enable service to be effected prior to the required minimum period before the hearing of the application. Service must take place not less than 14 days before the application is to be heard.
- Applicants should bring one (1) original and four (4) copies of the supporting affidavits to the Court at the time of lodgment. Of these the original is stamped by registry staff and filed with the Court; two copies are stamped and returned to the applicant for service; one copy is stamped and returned to the applicant to be provided to the legal practitioner moving the applicant’s admission; and one copy is stamped and retained by the applicant for his or her records.

5. **Oath:**

- Section 34 of the Act provides that a person who applies for admission to the legal profession must take and subscribe an oath. The form for the oath is given at form 57BG of the *Supreme Court Forms Rules 2000*.
- The oath is lodged with the Court by the applicant prior to the date of the application. As a matter of convenience this is usually done at the same time as the supporting materials are lodged with the Court.
- Applicants should bring one (1) original and (1) copy of the Oath at the time of lodgment with the Court. The original will be stamped and filed with the Court and the copy will be stamped and returned to the applicant for his or her records.
- It should be noted that a jurat is not required on the oath (in other words it is not sworn/affirmed before anyone prior to lodgment as an affidavit is) and the oath should be lodged with the court **unsigned**. The oath is sworn/affirmed before the Court and signed during the hearing of the application, once the Court has found the person to have the qualifications and training required for admission and to be a fit and proper person for admission (see rule 783AJ of the *Supreme Court Rules 2000*).
- The oath does not need to be served.

6. **Service:**

- The application and supporting material must be served on the Law Society of Tasmania and the Legal Profession Board in accordance with rule 783AD(2), not less than 14 days before the application is to be heard.
- The documents to be served should be sealed copies (copies of the documents filed with the Court and stamped by the registry with the Court's office seal) (see rule 132 of the *Supreme Court Rules 2000*).
- The documents should be served personally (see rule 133 of the *Supreme Court Rules 2000*) which can be done by delivery of the sealed copies of the document to the offices of the Law Society of Tasmania and the Legal Profession Board (see rule 135 of the *Supreme Court Rules 2000*).

- An officer of the Law Society and the Legal Profession Board should be asked to sign an acknowledgement of receipt of the documents at the time that the documents are delivered. This acknowledgement will be annexed to the Affidavit of Service.
7. **Provision of papers:** If a legal practitioner is moving your admission for you then you should provide him or her with a copy of your application and the supporting materials.
8. **Affidavit of service:**
- An affidavit of service (see form 57BF of the Supreme Court Forms Rules 2000) on the Law Society of Tasmania and the Legal Profession Board must be filed with the Court not less than 7 days before the application is to be heard in accordance with rule 783AH of the *Supreme Court Rules 2000*.
 - The affidavit of service should have two signed acknowledgments of service annexed to it: one from the Law Society and one from the Legal Profession Board.
 - One (1) original and two (2) copies of the affidavit of service must be taken to the Court registry at the time of lodgment. Of these one will be stamped by registry staff and filed in the Court, one copy will be stamped and returned to the applicant to be provided to the legal practitioner moving the applicant's admission and the remaining copy will be stamped by registry staff and retained by the applicant for their records.
9. **Additional material or evidence:** The Judge hearing the application for admission may require the applicant to provide additional evidence, by affidavit or orally.
10. **Judge's Papers:**
- In accordance with Practice Direction 16 of 2005, one set of papers for the use of the Judge must be filed at least two clear days before the hearing.
 - Judge's papers are a collation of copies of the application, the affidavits, including any annexures, and the oath relied upon in support of the application.

- The Judge's Papers should contain copies of the stamped and dated application and all of the stamped and dated materials lodged in support of the application.
- The materials should be placed in a logical order, given page numbers, bound securely with staples or similar and should contain a title page at the front of the collation that includes the title of the proceeding and an index of the collation.

11. *Appearing in Court for the application:*

- Applicants should attend the Court promptly and dress for the occasion in such a way as to demonstrate respect for the Court and the application being made. Neat business attire is appropriate.
- Applications for admission are civil applications and they are heard in Court. The Judge and counsel robe, but do not wear wigs.
- Applicants for admission should be seated in the public seating available in the Court, or in such other area as directed by court staff. Legal practitioners moving admission and representing the Legal Profession Board and the Law Society will be seated at or near to the bar table.
- The order of the matters to be heard in the Court on that day is co-ordinated by the Judge's Associate in accordance with the direction of the Judge and the circumstances. When a number of admissions are to be heard on the same day some aspects of the hearing may be dealt with collectively.
- When the application is called on by the Judge's Associate the legal practitioner appearing on the applicant's behalf, or the applicant if appearing him or herself, will stand and announce his or her appearance and submit that the application should be granted.
- If there is any objection to admission, need for further evidence to be brought, or difficulty with the application that has not already been addressed administratively, the Judge will deal with this.
- If there are no difficulties with the application the applicant will then be asked to stand and orally swear or affirm the oath before the Court. The oath is signed by the applicant once this is done.
- The Judge will then make the order admitting the applicant to the legal profession.

Affidavit in support of the application for admission

The affidavit of the applicant provides a major part of the evidence upon which the Court reaches its determination that the applicant is eligible and suitable for admission.

The form for the affidavit is form 57BB of the *Supreme Court Forms Rules 2000*. The form lists a number of paragraphs and suggests the wording of these. The number and precise wording of paragraphs does not need to be adhered to slavishly. The content of your affidavit may suit some variation in wording, or a larger number of paragraphs.

The affidavit provides evidence of the applicant's eligibility for admission (that they have the academic qualifications and have completed the practical legal training requirements) by referring to and annexing a certificate of eligibility from the Board.

The affidavit provides evidence that the applicant is a fit and proper person for admission. In so doing the applicant must address the suitability matters, the relevant matters and must indicate whether or not they are aware of any objections to their application for admission.

Suitability matters:

Rule 783AE (1) of the *Supreme Court Rules 2000* requires the applicant to address **each** of the suitability matters listed in section 9 of the Act. It is not sufficient to say for example:

- "I have no suitability matters to disclose"; or
- "I have no suitability matters to disclose other than a conviction for fraud".

The applicant must address **every** suitability matter and also **explain** any matters that are disclosed. In the case of criminal convictions, section 9 of the Act requires that the applicant disclose the nature of the offence, how long ago it was committed and their age when the offence was committed.

An example of the way in which the suitability matters listed in paragraphs (a) to (f) of section 9(1) of the Act might be addressed is:

- a) I am of good fame and character.
- b) I have not been insolvent under administration.
- c) Some matters appear on my record of prior convictions referred to at paragraph () and forming annexure C.

- i.) I was convicted with failing to obey the direction of a police officer in 2001. This offence appears on my record of prior convictions (attachment C) on page one, complaint number (). I was 22 at the time of the offence. I pleaded guilty to the charge on (date). The matter was adjourned and no conviction was recorded. The offence related to my attendance at a protest rally in the grassy area in front of Parliament House in Tasmania. The rally was protesting about old growth logging. I was leading a chant through a loud hailer. I was arrested along with a number of other people. Apart from refusing to leave the steps outside Parliament House when directed by police I did not commit any other unlawful act. I did not resist my arrest.
- ii.) I was convicted of fraud in 2003. This offence appears on my record of prior convictions (attachment C) on page one, complaint number (). I was 24 at the time. I pleaded guilty to the charge on (date). A conviction was recorded and I was ordered to perform 20 hours of community service. The fraud related to an overpayment of \$2343.00 from Centrelink which gradually accrued over fourteen months. I was attending University at the time. I did not tell Centrelink that the boy who had been my flat-mate became my boyfriend. My boy-friend didn't want me to tell Centrelink because he didn't want his payments to be reduced. I didn't really realize the seriousness of not telling them at the time. I was also working hard with my studies and had reduced my part-time work hours to better focus on my degree and therefore needed the money. I now realize this was the wrong thing to do. I have repaid all of the money personally.
- iii.) I have received two traffic infringement notices for exceeding the speed limit by between 5 and 10 km per hour in an 80 km per hour zone. These appear at page one of my record of prior convictions (attachment C). I was 30 at the time of these infringements. I paid the fines relating to these offences. Both infringement notices were obtained in the course of driving to my place of work on different days. The road was dry and the visibility good on both occasions. I was running late for work.
- d) I have never engaged in legal practice in Australia.
- e) I have never practiced law in a foreign country.
- f) To my knowledge I am not the subject of an unresolved complaint, investigation, charge or order under the Legal Profession Act 2007, or a previous law of this jurisdiction that corresponds to the Legal Profession Act 2007 or any corresponding law or corresponding foreign law.

[and so on, responding to paragraphs (g) to (m) inclusive of s9(1) of the Act]

Relevant matters:

Rule 783AE (1) of the *Supreme Court Rules 2000* requires the applicant to address **any** relevant matters. The matters listed in the definition at rule 783AB of the *Supreme Court Rules 2000* are examples of the sorts of matters that should be disclosed. They are not the

only sorts of matter that may be relevant. The above part of this document headed *“Suitability for admission and the duty of disclosure”* contains information about the type of matters that must be disclosed to the Court.

It is not necessary for the applicant to specifically address all of the types of matter defined as relevant matters. Only a relevant matter that does arise with respect to the applicant need be disclosed.

Objections:

It is customary for applicants to indicate in their affidavit whether they are aware of any objections to their application for admission to the legal profession (see section 32 of the Act for the right to object to admission).

If publication of the notices of intention to apply for admission to the legal profession, or service of the applications, has resulted in no objections then the applicant could include a paragraph saying something like:

“No notice of objection to my application for admission has been forwarded to me by the Registrar of the Supreme Court of Tasmania and I have not been notified of any other objections by any other means”.

If the applicant has been made aware of an objection to their application then the applicant should indicate this in an affidavit and provide any explanation of the circumstances giving rise to the objection that they can.

The affidavits as to character

Affidavits as to character are intended to provide evidence that the applicant is of good reputation and character. They must be made by an “acceptable deponent”. The affidavit as to character must therefore include information about three things:

- i. why the deponent is acceptable;
- ii. the nature of the deponent’s relationship with the applicant; and
- iii. information about the good character of the applicant.

The form for the affidavit is form 57BC. The form lists a number of paragraphs and suggests the wording of these. The number and precise wording of paragraphs do not need to be adhered to slavishly. The content of the affidavit may suit some variation in wording, or a larger number of paragraphs.

Who is an acceptable deponent?

An acceptable deponent is defined in rule 783AA of the *Supreme Court Rules 2000*:

“**“acceptable deponent”**, in relation to an applicant, means a person who is not married to the applicant, in a significant relationship, within the meaning of the Relationships Act 2003, with the applicant or a close blood relative of the applicant and –

(a) is a commissioner for declarations pursuant to section 12 of the Oaths Act 2001 and has known the applicant for a period of not less than 12 months; or

(b) has an occupation in an overseas jurisdiction, or is authorised to practise in a profession in an overseas jurisdiction, that is substantially equivalent to one that would qualify the person as a commissioner for declarations pursuant to section 12(2) of the Oaths Act 2001 and has known the applicant for a period of not less than 12 months; or

(c) is, or was, employed at a secondary or tertiary teaching institution and taught the applicant for not less than the equivalent of one year of tertiary studies, or one of the two final years of secondary studies; or

(d) is a person determined by the Court to be an acceptable deponent.”

Section 12 of the *Oaths Act 2001* in turn states that a person is a commissioner for declarations if they are a member of a profession listed in Part 1 of the Schedule to the *Statutory Declarations Regulations 1993 (Cwth)* or a person listed in Part 2 of that Schedule. Applicants should refer to these lists before choosing the person who will provide the affidavit as to character.

In summary a deponent will need to address the following matters in their affidavit in order for the Court to be satisfied that they are an “acceptable deponent”:

- That they are not married to the applicant, in a significant relationship with the applicant, or a close blood relative of the applicant;
- Details of their profession, employment history or background; and
- The length of time that they have known the applicant.

The details of profession or employment that must be provided by the deponent depend upon the category in which the person falls within the definition of “acceptable deponent”. For some deponents, stating that one is a member of a particular profession, for example a legal practitioner or a medical practitioner will be sufficient detail. For some others the person providing the affidavit as to character will need to include further

information relating to their employment or circumstances. For example, a state public servant may provide an affidavit as to character if they are a “permanent employee of ... a State... authority... with 5 or more years of continuous service” (see item 230 of Part 2 of Schedule 2 *Statutory Declarations Regulations 1993 (Cwth)*). Such a person would need to state something like the following in their affidavit:

“I have been a permanent employee in the Tasmanian public service continuously since 2001.”

In some instances it may be appropriate or necessary to obtain an affidavit as to character from a person who does not, or who is no longer, an acceptable deponent. For example, the applicant’s circumstances may be such that the people best placed to assure the Court of the applicant’s good character do not fit the criteria. In these cases the Court can “determine” that the deponent is acceptable. To make this determination the Court must be provided with information about the deponent’s background such as details of their employment or employment history, their un-paid work, their community or charity work. This information should be provided in the deponent’s affidavit.

The nature of the deponent’s relationship with the applicant:

In addition to details of why a person is an “acceptable deponent” the deponent must provide information about the length and circumstances of their acquaintance with the applicant. See the example given below under the sub-heading “An example of the content of an affidavit as to character”.

The deponent’s belief that the applicant is of good character

Finally the deponent should be able to provide reasons why they believe that the applicant is of good reputation and character. If there are matters adverse to the applicant that have been disclosed in the application then the deponent **must** be able to indicate that they are aware of those adverse matters. If the matters are serious ones then the deponent should explain why they believe that the applicant is of good character despite the adverse matters that have been disclosed. An example of the sort of information that might be provided by a deponent who knows about adverse matters is given below.

An example of the content of an affidavit as to character

1. I am not married to the applicant, in a significant relationship with the applicant, or a close blood relative of the applicant.

2. I am a full-time teacher currently employed at ? Primary School .
3. I have lived next door to the applicant's parents since 1993. I have therefore known the applicant and her family from 1993 till the present.
4. The applicant was a close friend of my oldest child and spent time at my house in this context. The applicant also worked as a baby sitter for me on many occasions. She also worked as a nanny for two of my younger children for three years while she was at University. Her work hours were variable but were usually roughly three blocks of 3-4 hours each week.
5. The applicant has always been a happy, kind and responsible presence in my home and with my children. I trust her completely.
6. The applicant told me about her convictions for possession of marijuana and giving a false name to police at the time she was convicted. She was very ashamed of her convictions. She told me about it because she was working for me as a nanny at the time and she wanted me to know in case I wished to find someone else to care for my children. I did not consider doing otherwise than continuing to employ her despite the conviction for several reasons. First, I had no other cause to doubt her. Secondly because of her honesty in telling me about it. Thirdly because I am very happy with the work she does for me and the children love her. Finally I was and am of the view that her use of marijuana was not a regular thing. I have never seen her use it or seem to be under its influence. She told me and I believe that it was an occasional social thing she did in the company of others. She told me she has not done this since being charged with the offence.
7. I am also aware that she initially gave the police a made up name at the time of her arrest. She admitted to me that this was dishonest and also very stupid and that she has learnt a real lesson that telling lies about such things, or trying to be evasive about one's actions is never the right thing to do. I believe that she has learnt this lesson and that she will be honest about her actions in the future. She demonstrated this by coming to me voluntarily to tell me about her offences.
8. I believe that she is of good character.

Common errors in the formal requirements for the application

Like any other application to the Court, the application for admission should comply with the formal requirements for Court documents. Making an application for admission is an opportunity for applicants to familiarize themselves with relevant parts of the *Supreme Court Rules 2000*. For example: see Part 7 Divisions 1, 2, 4, 7 and 9 with regard to the requirements for documents, filing, originating process, originating applications and service; and see Part 19, Division 4 for the requirements relating to affidavits.

The following pieces of advice have been compiled as a result of common errors made by applicants:

1. Make sure that you explain any adverse matters that you disclose in your affidavit in support of your application for admission and that such issues are also addressed in

the affidavits as to character. Remember that you are providing the Court with evidence that you are a “fit and proper” person. If you do not explain then the Court may not have enough evidence upon which to make its determination.

2. The Legal Practitioner’s Oath you will take at the hearing of the application must be lodged with the Court with your other supporting materials **unsigned** and **without** a jurat.
3. You should be consistent about whether you swear or affirm in relevant cases. For example if your affidavit in support of your application for admission is “sworn” before an appropriate person, then you should also “swear that you will honestly conduct yourself...” in your oath on the day of your admission and the written version of your oath lodged with the Court should be worded accordingly. However, if you prefer to affirm, the documents should be worded accordingly.
4. Rules 511, 512 and 513 of the *Supreme Court Rules 2000* specify persons before whom an affidavit may be sworn. It is wise to swear affidavits before a person who is familiar with the appearance and formal requirements for affidavits and the annexures to them since they are unlikely to make an error or omission on your documents and may pick up an error or omission you have made.
5. Original documents ought to be annexed to the affidavit in support of the application for admission which will be filed with the Court. In the case of the notice published in the newspaper, ensure that the newspaper’s publication date is also visible on the extracted part of the newspaper annexed.
6. Documents annexed to an affidavit must be formally endorsed by the person before whom the affidavit is sworn as the exhibit on each page as follows:

Short title:

I certify that this is page of the annexure marked “.....”

Referred to in the affidavit of

Sworn this day. Signed..... Dated.....

A Justice of the Peace.

Court contact details:

Contact details for the Supreme Court for enquiries about admission are as follows:

HOBART REGISTRY:	
Address:	Salamanca Place Hobart Tasmania 7000

This document may be amended or updated at any time.

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Postal:	GPO Box 167 Hobart 7001
Ausdoc:	DX 18 Hobart
Telephone:	(03) 6233 6385
Facsimile:	(03) 6223 7816
Email:	courts@justice.tas.gov.au
Office Hours	9.00am - 4.30pm (Monday-Friday)

The addresses for the Supreme Court district registries are as follows:

LAUNCESTON DISTRICT REGISTRY:	
Address:	Cameron St, Launceston 7250, Tas
Postal:	GPO Box 190 Launceston 7250
Ausdoc:	DX 70117 Launceston
Telephone:	(03) 6236 2386
Facsimile:	(03) 63318618
Email:	courts@justice.tas.gov.au
Office Hours	9.00am - 4.30pm (Monday-Friday, not including the lunch hour between 1.00 and 2.00 pm)

BURNIE DISTRICT REGISTRY:	
Address:	38 Alexander St, Burnie, 7320, Tas
Postal:	GPO Box 690 Burnie 7320
Ausdoc:	DX 70228 Burnie
Telephone:	(03) 6434 6390
Facsimile:	(03) 6431 1480
Email:	courts@justice.tas.gov.au
Office Hours	9.00am - 4.30pm (Monday-Friday, not including the lunch hour between 1.00 and 2.00 pm)