

Specialist Accreditation Scheme

Building and Construction Law

This guide is for legal practitioners who are applying for specialist accreditation in Building and Construction Law.

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3.1 Definition

- 1.1. *Building and construction legal practice.* This is the practice of law relating to all aspects of development, design and construction of public and private projects. It shall encompass, but is not limited to, all advisory and documentation work undertaken for related stakeholders including contractors, developers, consultants, insurers and financial institutions, prior to the commencement of and all dispute-related work arising from such projects.

3.2 What this Guide Covers

- 2.1 The Specialist Accreditation Scheme attempts to apply the same accreditation framework, as set out in the Information for Applicants, across all practice areas.
- 2.2 In cases where there are additions to and/or deviations from the said accreditation framework for a particular practice area, a separate Guide for that practice area will state those deviations.
- 2.3 This Guide covers the additions to and/or deviations from the Eligibility Criteria and the Examination topics for Building and Construction Law.

3.3 Eligibility Criteria

- 3.1 **Substantial Involvement.** As part of their substantial involvement in this practice area, applicants must have been involved in a trial, arbitration or binding adjudication or statutory adjudication at least as second chair, and/or performed front-end work which can include but is not limited to detailed review, drafting and preparation of contracts.
- 3.2 The following work may also be included when calculating the billable amount/hours:
- a. Work done in relation to originating summons applications.
 - b. Pro bono work.
 - c. Work done in the applicant’s capacity as an adjudicator.

- 3.3 **References.** Applicants shall be required to submit two favourable reference statements from legal practitioners, in-house counsel, arbitrators or adjudicators in this practice area who can attest to the applicants' involvement and competence in the said practice area, and character.
- 3.4 Arbitrator or adjudicator referees must have arbitrated or adjudicated a matter before whom the applicants have appeared.

Examinations

- 3.1 The examination preparatory course covers the following topics:

Module 1. Introduction

- a. Structure of the industry – owners, consultants, contractors and subcontractors
- b. The development and construction process and the regulatory regime
- c. Characteristics of construction contracts
- d. Procurement models: traditional build only, design and build, construction fee
- e. Overview of the major Standard Forms: SIA Form, PSSCOC, REDAS
- f. Contract formation modes: bidding and negotiation
- g. Award or placement of contract
- h. Financing of projects and development

Module 2. Contract Documents and Risk Management

- a. Risks register and mitigation – legal and contractual
- b. Role of the designer, contract administrator and certifier
- c. Components of contract documents: the role and issues relating to each component and interpretation
- d. Risks relating to contractor's design, site and ground conditions
- e. Security deposits and insurances

Module 3. Time for Completion

- a. Concept of act of prevention and legal principles
- b. General terms for expediting progress of works and management of acceleration claim
- c. Problems relating to site possession and work commencement
- d. Accounting for timely delivery: Liquidated damages and loss and expense
- e. Managing extensions of time and related risks

Module 4. Managing Variations

- a. Concept of variations
- b. Extent of the power to vary
- c. Variation situations – ground conditions, regulatory changes, changes in quality and quantity, construction sequence
- d. Operation of variation provisions in the major standard forms

- e. Hierarchy of valuation rules
- f. Measurement and records

Module 5. Payment Regime

- a. Principles relating to the progress payment process
- b. Certification of payments
- c. Final payments
- d. Risks relating to delay in certification
- e. Case studies in late progress payment and late responses

Module 6. Security of Payment Act

- a. Objectives of the legislation
- b. Structure of the regime and the timelines
- c. Payment claim and payment response
- d. Operation of section 15(3) and the Adjudication Notice
- e. Adjudication application and adjudication response
- f. Adjudication conference
- g. Enforcing the adjudication determination

Module 7. Subcontracting Model

- a. Sub-contracting model: Contractor's and employer's rights and obligations with respect to nominated and direct subcontractors/suppliers
- b. General principles of "back-to-back" and "pass-down" risk allocations and exceptions
- c. Nominated subcontractors and nominated suppliers

Module 8. Termination

- a. Termination for breach and termination under the contract
- b. Common grounds of termination
- c. Termination on insolvency of a party
- d. Repossession of site
- e. The completion contract
- f. Final accounts

Module 9. Handover and Post-Completion Issues

- a. Concept of substantial completion and final completion
- b. Final accounts
- c. Maintenance period (or defects liability period)
- d. Liability for defects under contract and tort
- e. Statutory obligations of professionals

Module 10. Dispute Resolution

- a. Characteristics of construction disputes
 - b. Arbitration
 - c. Statutory adjudication
 - d. Mediation
 - e. Neutral evaluation
- 3.2 The examination comprises Parts A and B. Part A covers Modules 2, 3, 4, 7, 8, 9 and 10 (3 hours), while Part B focuses on Modules 5 and 6 (2.5 hours).
- 3.3 The examination comprises scenario-based problems with questions for each problem.