CURRENT ISSUES Trends in Legal Education and the Legal Profession: Comparative Perspectives

Abstract: Legal education in each of the jurisdictions varies in the requirements of its lawyers. In this paper, Ruth Bird, addresses the requirements in each country to study law; the specific requirement for foreign law graduates to study law, and which bodies regulate legal education. The answers to these questions are presented in a series of charts to provide a degree of clarity for the reader.

Keywords: legal education; legal profession

INTRODUCTION

The JSI (Joint Study Institute) held its most recent meeting in Melbourne, Australia, at the University of Melbourne Law School. This was the eighth in a series of biennial JSI meetings, which commenced in Cambridge in 1998. They have been hosted by the national associations of law libraries in the jurisdictions over the years, and are now suspended. The meetings provided a forum to discuss issues of relevance for our common law jurisdictions, and to compare our systems as well. One panel discussion this year centred on the differing requirements for legal education, both for the local residents, and also for lawyers from other jurisdictions.

The members of the panel who contributed their charts for this paper were:

Associate Professor Elise Bant, University of Melbourne (Australia), together with Amy Harrington, Associate Director, External Relations Development, Melbourne Law School at University of Melbourne.

- Kim Clarke, Associate Vice-provost (Libraries and Cultural Resources) for Research Support, and Director of the Bennett Jones Law Library at the University of Calgary (Canada).
- Stephanie Carr, Manager of the Davis Law Library, University of Auckland (New Zealand).
- Ruth Bird, Bodleian Law Librarian, University of Oxford (England & Wales, Scotland and Northern Ireland).
- The fifth member of our panel was Billie Jo Kaufman, Associate Dean for Library and Information Resources at the Pence Law Library, Washington College of Law, American University (USA).

The panel discussed the following requirements in the following countries:

England and Wales, Scotland, Northern Ireland, Canada, Australia, New Zealand and the United

States. We summarised the requirements into a chart, with the exception of the United States, where the requirements vary so much between each of the 50 States. So this paper does not include the US charts, but directs interested readers to the Comprehensive Guide to Bar Admission Requirements 2013 http://www.ncbex.org/assets/media_files/Comp-Guide/CompGuide.pdf. This Comprehensive Guide includes a series of state by state comparative tables listing requirements in each jurisdiction. It is not possible to easily summarise this information without leading readers astray.

The JSI panel did not address the prospect of a change in the courses offered in England and Wales, even though the Legal Education Training Review (LETR) was under way, because at the time of the JSI it was not known what the outcome of the review would be. The LETR published its report¹ on 25 June 2013.

This paper provides a collection of the charts prepared by the presenters on the Panel, with the exception of the United States, as explained above.

Legal education ranges from the 3 year undergraduate degree offered in England and Wales to the postgraduate JD which is the norm in the United States, and is being adopted in some jurisdictions in Australia and elsewhere. But the variations and requirements are far more nuanced, and for anyone seeking the detail we hope that this collection of resources will be a useful starting point. Links to official sites are included with each chart.

I. AUSTRALIA

Until recently Australia required an undergraduate degree in law which was of four years' duration. The reality was that most students chose to take a joint degree with another discipline – eg Commerce, Arts, or Science. This would result in a 5 year undergraduate degree, followed

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by a year of graduate training through a college or as a trainee or clerk in a law firm. Students who wished to move on to the bar would do so after completing the traineeship. Several years ago the University of Melbourne introduced a postgraduate JD of 2 to 3 years duration, and other law schools have followed this, so the legal education situation varies from one institution to another. The Australian legal system is regulated at the

state level, and as such the specific requirements for admission to practice differs from state to state. Admitted lawyers are able to practice in various jurisdictions under the Mutual Recognition Principle which allows for the admission of interstate lawyers from all Australian states and territories, and New Zealand.

This chart concentrates on the State of Victoria, which is where the JSI was held.

Question	Explanation	Comments
1. The education and any other requirements needed to practise law.	 An LLB or a JD including Priestley 11 as well as either a year of Supervised Workplace Training (Traineeship, formerly Articles of Clerkship) or completion of a Practical Legal Training course (usually 6 months full-time study). Applicants for admission to the Supreme Court must also supply: an affidavit of disclosure two affidavits as to character in the form set out in Schedule 9 of the Rules, each made by an acceptable deponent a criminal record check academic conduct reports from each tertiary institution or PLT provider at which the applicant has studied 	 Priestley 11 are the subjects required for admission in Victoria: Criminal law and procedure Torts Contracts Property Equity (including Trusts) Company Law Administrative law Federal and State Constitutional law, Civil procedure Evidence Professional Responsibility/ Ethics
2. What do foreign law graduates do to practise law in your jurisdiction.	 In Victoria, this depends upon the jurisdiction and law school from which they graduated; and whether the applicant is admitted in another jurisdiction. The Council of Legal Education applies the Uniform Principles for Assessing Qualifications of Overseas Applicants for Admission to the Australian Legal Profession, and makes a ruling on a case-by-case basis. SUMMARY OF REQUIREMENTS To be admitted to the legal profession in an Australian jurisdiction on the basis of qualifications obtained outside Australia, an applicant must usually have: (a) completed a tertiary course leading to legal practice in the applicant's home jurisdiction, which is substantially equivalent to a three-year full-time law course that leads to admission to the legal profession 	http://www.lawadmissions. vic.gov.au/overseas_applicants http://www.lawadmissions. vic.gov.au/docs/Information_ for_Qualified_Overseas_ Applicants.pdf http://www.lawadmissions.vic.gov. au/docs/Information_ for_Overseas_Practitioners.pdf http://www.lawadmissions. vic.gov.au/docs/Uniform_ Principles_February_2012.pdf

	 either as part of that course or otherwise, which are substantially equivalent to the areas of study which Australian applicants must successfully complete before being admitted to the legal profession in Australia; and (c) acquired and demonstrated an appropriate understanding of, and competence in, certain skills, practice areas and values, which are substantially equivalent to the skills, practice areas and values which Australian applicants must acquire and demonstrate an understanding of and competence in, before being admitted to the legal profession in Australia; and (d) undertaken, or been exempted from, the International English Language Testing System Academic Module (IELTS) test within two years before seeking admission, and obtained minimum scores of 8.0 for writing, 7.5 for speaking and 7.0 for reading and listening, in the components of that test.
	An Admitting Authority may dispense with one or more of the requirements referred to in items (b) and (c) in the case of an experienced practitioner from an overseas jurisdiction if it considers that the applicant's experience is sufficiently relevant, substantial and current to justify a dispensation. A lawyer trained and admitted to the legal profession in New Zealand may apply to have those qualifications recognised under the <i>Trans-Tasman</i> <i>Mutual Recognition Act 1997</i> (Cth).
3. Who/what bodies regulate legal education.	Council of Legal Education and Board of Examiners

Further reading:

Victorian Law Institute Council of Legal Education and Board of Studies College of Law Leo Cussen Institute Melbourne Law School JD website Australian overview Law council of Austraia http://www.liv.asn.au/ http://www.lawadmissions.vic.gov.au/ http://www.collaw.edu.au/ http://www.leocussen.vic.edu.au/ http://www.law.unimelb.edu.au/jd http://www.cald.asn.au/slia/legal.htm http://www.lawcouncil.asn.au

2. CANADA

The Canadian system is similar to Australia; the provinces share the responsibility for legal education with the law

schools. There is a three year LLB or JD; the LLB is often offered as a joint degree with other subjects. Canada has a fused profession, with lawyers specialising in their areas of practice, and being designated solicitor *and* barrister.

Question	Explanation	Comments
What are the requirements to needed to practise law?	 A law degree (LLB or JD) Possess competencies identified in the Federation of Canadian Law Societies Common Law Report Successfully complete their articles Pass the bar exam 	 Regulating the practice of law is a provincial matter so requirements may vary between provinces Law societies are subject to provincial laws Ontario will be implementing a two tier articling system, comprised of articling option and a Law Practice Program
What must foreign law graduates do to practise law in your jurisdiction?	 Apply to the Federation's National Committee on Accreditation (NCA) to have educational file assessed Will be required to take NCA's exam and/or courses at a Canadian law school to receive a Certificate of Qualification Must then article and pass bar exam, like Canadian students 	Provincial law societies have passed rules stipulating that the NCA's evaluation of the candidate will be accepted
Who/what bodies regulate legal education?	 Officially, no accreditation Federation's Common Law Report is providing law societies with an indirect approach to regulating education; impacting curriculum by requiring graduates to possess specific competencies 	

Further reading:

Legal Education in Canada – official Guide - http://www.lsac.org/jd/choose/canadian/legaledcanada.asp Federation of Canadian Law Societies' Task Force on the Canadian Common Law Degree, Final Report (2009) http:// www.flsc.ca/ documents/Common-Law-Degree-Report-C(1).pdf

Law Society of Upper Canada's Articling Task Force, Pathways to the Profession: A Roadmap for the Reform for Lawyer Licensing in Ontario (2012) http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147489848

3. ENGLAND AND WALES

Legal education in England and Wales is offered at undergraduate level. There is a review underway (the LETR, cited above). Many of the larger firms offer traineeships to students from disciplines other than law (before the financial downturn this was up to 50% of offers; it is now closer to 30% of traineeships). Specialised training for solicitors and barristers is undertaken at the end of the undergraduate degree and is offered by varied providers.

 Degree Route 1. Completed degree in any field. 2. GDL – Graduate Diploma in law (this is the CPE – Common Professional Examination) offered by College of Law, BPP University College and numerous universities. 3. On to the LPC – Legal Practice Course 4. Training contract, incorporating the Professional Skills Course (PSC) 5. The solicitor is added to the Roll and certificate to practise is issued by the SRA. o Between 25 and 50% of all Training Contracts offered by the major law firms are offered to students who do not have an LLB. 	 First class degree, including those holding a non-law degree (still a minority) As well as completing a law degree or equivalent qualification, students must join an Inn of Court before commencing the BPTC. Vocational Stage: the Bar Professional Training Course (BPTC), which entails one year of full time study or two years' part time study. Offere by College of Law, BPP, and universities. Pupillage: one year spent as a pupil in barristers' chambers or in another approved organisation. It is divided int two parts: the "first six" - a non-practising six months (including an Advocacy Training course) and the "second six" - a practising six months and includes a Practice Management course. The Inns and circuits provide this training. Called to the Bar – once the BPTC is completed, and before commencing the "second six", pupils have to complete qualifying sessions (currently 12), which are dining or educational session in the pupil's Inn.
o practise law in your jurisdiction?	
to the Bar Standards Board (BSB Regulations (September 2009) Requirements:	Lawyer". Application must be made) under the Bar Training epute, eg a Certificate of the Senior
	 field. 2. GDL – Graduate Diploma in law (this is the CPE – Common Professional Examination) offered by College of Law, BPP University College and numerous universities. 3. On to the LPC – Legal Practice Course 4. Training contract, incorporating the Professional Skills Course (PSC) 5. The solicitor is added to the Roll and certificate to practise is issued by the SRA. o Between 25 and 50% of all Training Contracts offered by the major law firms are offered to students who do not have an LLB. between 25 and 50% of all Training Contracts offered by the major law firms are offered to students who do not have an LLB.

rights of audience in that court and a fit and proper person to

jurisdiction in which qualified on the ground of commission of a

criminal offence or professional misconduct and is not currently

Applicant has not been prohibited from practising in the

Evidence of all academic and professional qualifications.

Overseas qualifications must also include an official English

(d) Any other evidence which you wish to supply in support of your

suspended from practising on such grounds.

translation of certificates and results

qualification in the recognised jurisdiction;

- (c) Is entitled to practise as a qualified lawyer of the recognised jurisdiction;
- (d) Has satisfied any applicable English language requirements published by SRA; and
- (e) Is of the character and suitability to be admitted as a solicitor. The QLTS course is run by Kaplan and covers core knowledge and understanding of the law applied in England and Wales. The tests are OSCE (Objective Structure Clinical Examination) and TLST (Technical Legal Skills Test). These assessments combine a test of skills and knowledge of property and probate, civil and criminal litigation and business law.

(A fee of c.£3,000 is also required.)

3. Who/what bodies regulate legal education?

The Legal Services Board under the Legal Services Act 2007. The Joint Academic Stage Board of the SRA is the regulator responsible for the validation of qualifying law degrees (QLDs) and law conversion courses — the Common Professional Examination (CPE) or Graduate Diploma in Law (GDL) and the BPTC

be Called to the Bar

In 2011 the Legal Education Training Review (LETR) http://letr.org.uk/ was established and is due to report in the next couple of months. It was commissioned by the Solicitors Regulation Authority, Bar Standards Board and ILEX Professional Standards to undertake a full review of education and training requirements across regulated and non-regulated legal services in England and Wales.

Further reading:

The Bar Council	http://www.barcouncil.org.uk/
Bar Standards Board (BSB)	https://www.barstandardsboard.org.uk/
Solicitors Registration Authority (SRA)	http://www.sra.org.uk/home/home.page
Legal Education Training Review (LETR)	http://letr.org.uk/
Legal Services Board	http://www.legalservicesboard.org.uk/
ILEX Professional Standards	http://www.cilex.org.uk/ips/ips_home.aspx
BPP University College	http://www.bpp.com/
The University of Law	http://www.law.ac.uk/home/
The Law Society of England and Wales	http://www.lawsociety.org.uk/
The Law Society of Scotland	http://www.lawscot.org.uk/
The Law Society of Northern Ireland	http://www.lawsoc-ni.org/
Faculty of Law, University of Oxford	http://www.law.ox.ac.uk/
Bodleian Law Library	http://www.bodleian.ox.ac.uk
BIALL Legal Information Literacy Statemen	t http://www.biall.org.uk/pages/biall-legal-information-literacy-statement.html

4. NEW ZEALAND

The requirement for professional post graduate qualifications in law is the undergraduate law degree, although there is a review of legal education underway in New Zealand. A barrister requires 3 years' legal experience prior to being allowed to practise.

QLTS course is run by
lan and covers coreapplication (e.g. references)(e)Current application fee of £440

(b)

(c)

Question	Explanation	Comments
1. What are the education	1. Bachelor of Laws degree (LLB);	
(and any other requirements) needed to practise law?	 Professional Legal Studies Course; Completion certificate from the 	
	New Zealand Council of Legal Education;4. Certificate of character from the	
	 Law Society; 5. Admission to the roll of Barristers and Solicitors of the High Court of New Zealand; 6. Current practising certificate issued by the Law Society. 	
	It is an offence for someone without a current practising certificate to describe himself or herself as a lawyer.	
2. What do foreign law graduates do to practise law in your jurisdiction?	Overseas law graduates or those who have been admitted in another jurisdiction (except Australia) may be required to complete further New Zealand university subjects and/ or parts of the New Zealand Law and Practice Examination.	Trans-Tasman Mutual Recognition Act 1997, s 14. Trans-Tasman Mutual Recognition Admission Regulations 2008.
	 Apply to NZ Council of Legal Education; With CV (resume), Academic records, evidence of professional experience, evidence of English language proficiency, evidence of identity, Statutory Declaration or Affidavit; 	
	 Complete NZ Law and Practice Exam if required. 	

Who/what bodies regulate legal education?
 University Law Schools.
 NZ Council of Legal Education.
 NZ Council of Legal Education.
 Lawyers and Conveyancers Act 2006 (LCA) came into force on 1 August 2008. The LCA gives the Law Society the responsibility of regulating the legal profession.

Further reading:

New Zealand Council of Legal Education www.nzcle.org.nz

New Zealand Law Society http://www.lawsociety.org.nz/

New Zealand Legislation (Parliamentary Counsel Office) www.legislation.govt.nz

Institute of Professional Legal Studies http://www.ipls.org.nz/

College of Law http://www.collaw.ac.nz/

University of Auckland Faculty of Law http://www.law.auckland.ac.nz/uoa/

Davis Law Library http://www.library.auckland.ac.nz/subject-guides/law/home.htm

Peter Spiller, Jeremy Finn and Richard Boast A New Zealand Legal History (2nd ed, Brookers, Wellington, 2001).

5. SCOTLAND AND NORTHERN IRELAND

Although there are similarities to the English legal education system and its requirements, there are

enough differences to warrant noting them in more detail below.

	tland icitors – The Law Degree ite	Scotland Solicitors - The Non Law Degree Route	Ad	otland Ivocates (term used for rristers)
Lav deg Coi	The LLB degree in Scots Law (which can be studied at 10 universities in Scotland) - followed by: The Diploma in Professional Legal Practice (the Diploma) (which can be undertaken at six universities in Scotland) - followed by: traineeship - the period of paid in-office training working towards the standard of the qualified solicitor rthern Ireland w degree from list of recognised grees including these 8 subjects: nstitutional law, Tort, Contract,	 A three-year pre-Diploma training contract with a Scottish solicitor and studying for the Society's professional exams. The Diploma in Professional Legal Practice (the Diploma) (which can be undertaken at six universities in Scotland) A traineeship - the period of paid in-office training working towards the standard of the qualified solicitor Northern Ireland Non-law graduates must complete a two-year master's in legal science at QUB 	 1. 2. 3. 4. 	honours 2.2 or above. The Diploma in Professional Legal Practice (the Diploma) and 24 months a as a trainee in a solicitor's office Have passed or be exempted from Faculty Examinations in: Roman law of Property & Obligations; Jurisprudence; Con & Admin law; Scottish Criminal Law; Scottish private law; Commercial law; Evidence; International private law; European law Matriculation as an Intrant to the Faculty – this is needed to sit any of the above exams held by the Faculty.
	 at INstitute of Professional Legal Studies QUB or Grad School of Professional Legal Education. This is part of the 2 year Apprenticeship with a Master. 	before they can progress to their apprenticeship2. A period of apprenticeship.	 5. 6. 7. 	Entrance exams set by Faculty of Advocates Pupillage/Devilling 8 or 9 months with a devil master(!) including foundation, skills and practice courses. Admission to Faculty of Advocates after passing its scheme of assessment.
	Must register first with the Law Society.		No	orthern Ireland
	·			An approved law degree One year full time Degree of Barrister-at-law after passing an entrance exam. Pupillage of 12 months Admission to the Inn of the Court of Northern Ireland.
2. \	What do foreign law graduates do	to practise law in your jurisdiction?		
S	cotland olicitors	Scotland Advocates		a in Southand in a second has the
Т	The Intra UK Transfer Test is applicable to solicitors qualified in England, Wales	The process of becoming an Advo Faculty of Advocates' Regulation below is for Barristers from Engla	s as	to Intrants. The process outlined

and Northern Ireland.

The Aptitude Test for EU Qualified Lawyers applies to all other European Union qualified lawyers.

Lawyers from non-EU

jurisdictions wishing to requalify in Scotland should email the Law Society of Scotland's Registrar's Department for guidance about requirements and should provide information on when they qualified and in which country/region they are admitted.

Northern Ireland

Documents have to be submitted for transfer from Eng, Wales, Ireland or Scotland:

- a Certificate of Good Standing from the applicant's Law Society/SRA which states that the applicant is a fit and proper person to practice as a solicitor in Northern Ireland;
- a certified copy of the applicant's original Admission Certificate to the Roll of Solicitors in England and Wales/ Republic of Ireland or Scotland
- c) a description of the applicant's experience since admission
- d) two character references, the referees must be solicitors or members of the applicant's professional body
- e) £150 registration / admission fee
- f) Education Committee considers it, then undertake courses in Conveyancing & Administration of Estates, and then a period of apprenticeship.

3. Who/what bodies regulate legal education?

Scotland:

The Law Society of Scotland is the professional body for Scottish solicitors. Established in 1949 and financed by members without any funding from government. Faculty of Advocates sets the standards for barristers.

and legal Practitioners from other Member States of the European Community.

- 1. Matriculation as an Intrant All applicants must, in the first instance, matriculate as an Intrant.
- 2. Pass the Aptitude Test The Aptitude Test must be passed at one of the Faculty's examination diets, and can only be sat once matriculated.
- Training Requirements There is no compulsory requirement to undertake a period of pupillage/devlling. But recommend a period of at least 3 months devilling before being admitted as an Advocate.
- 4. Become admitted as a member of the Faculty of Advocates After successfully completing all the above steps, then admitted as a member at any one of the 5 admission dates.

Northern Ireland

A barrister from England and Wales may be called to the bar of Northern Ireland if they have completed ALL stages of qualification. This also applies to barristers from the Republic of Ireland Chambers are also known as Stables.

Northern Ireland

The primary legislation is the Solicitors (Northern Ireland) Order 1976 as amended (the Order) The Order is the statutory framework enabling the Law Society to act as the regulatory authority and set standards, educational requirements etc.

The Honorable Society of the Inn of Court of Northern Ireland is the professional body which governs the education, training and admittance of barristers in NI. This responsibility is partly delegated to the Institute of Professional Legal Studies, a part of Queen's University Belfast.

Further reading:

The Law Society of Scotland – http://www.lawscot.org.uk The Faculty of Advocates – http://www.advocates.org.uk Law Society of Northern Ireland – http://www.lawsoc-ni.org The Inn of Court of Northern Ireland – http://www.barlibrary.com/about-us/the-inn-of-court/ Queens University Belfast – http://www.qub.ac.uk/schools/SchoolofLaw/ProspectiveStudents/PostgraduateTaughtDegrees/ MastersinLegalScience/

6. UNITED STATES

As mentioned in the introduction, the variations from State to State are such that a description of US legal education would warrant an article on its own. There are several common aspects that can be summarised here. Legal education is a postgraduate undertaking. The JD is usually a three year degree taken after the completion of any undergraduate degree of interest to the student. Students must also pass the LSAT – the Law School Admission Test prior to going to law school. Postgraduate admission to the bar of one state does not entitle practise in another state. Some states do administer a multistate bar exam. The profession is fused, so there is no separate practising bar.

Further reading:

The American Bar association has a section on Legal education - http://www.americanbar.org/groups/legal_education. html and is responsible for the standards for accreditation of US Law Schools. International Law Student site - http://www.internationalstudent.com/study-law/legal-education-system/

CONCLUSION

Legal education requirements in the common law countries covered in the talk at the JSI vary. Some are at national level, others at state or provincial level. Reviews are being undertaken in various jurisdictions, in part as a result of the changing practise of law, and in others as a way of addressing the decline in career opportunities for law graduates. The panel were all in agreement that some form of legal research and writing training was still relevant for lawyers no matter where they were trained, and law librarians continue to have an important role in the provision of relevant training in the rapidly changing and expanding world of local and global legal research resources.

Footnote

See website at http://www.letr.org.uk/the-report/index.html.

Biography

Ruth Bird is the Law Librarian at the Bodleian Law Library, University of Oxford and has managed academic and law firm libraries in Australia and England. She was the National Convenor of the Australian Law Librarians Association (1994–1995), has been an active member of the Council of the British and Irish Association of Law Librarians (2008–2012) and a Board member of the International Association of Law Libraries since 2007.