

EXEMPTION POLICY

REQUESTS FOR EXEMPTION FROM/WAIVER OF THE REQUIREMENT TO UNDERTAKE THE BAR EXAMS, BAR PRACTICE COURSE AND/OR READING PROGRAM

See also the [Returning to the Bar Policy](#)

Introduction

1. The Council of the ACT Bar Association (**Bar Council**) is the relevant council under the *Legal Profession Act 2006* (ACT) (**LP Act**) in respect of the grant and renewal of barristers' practising certificates in the ACT.
2. Section 45 of the LP Act gives the Bar Council power to grant or renew practising certificates for persons to practise as barristers in the ACT.
3. A pre-requisite to the grant of a practising certificate is the Bar Council's satisfaction that the applicant is/continues to be a fit and proper person to hold or continue to hold a practising certificate (LPA, s 45(3), (4)).
4. In considering whether a person is a fit and proper person, the Bar Council may have regard to the "suitability" matters specified in s 11 of the LP Act as well as the further matters specified in s 36.

General requirements

5. Persons intending to commence practice at the ACT Bar are generally required to sit (and pass to the required standard) an examination set by the New South Wales Bar Association (**Bar Exam**) in order to obtain an ACT barrister's practising certificate. This requirement arises from ss 112.1 of the *Legal Profession (Barristers) Rules 2021* (ACT) (**ACT Bar Rules**) and clause 2 of the ACT Bar Association "Reading Program" (**Reading Program**).
6. Pursuant to clause 4 of the Reading Program, persons commencing practice at the ACT Bar (**readers**) must also complete to a satisfactory standard the NSW Bar Practice Course (**Bar Practice Course**) within six months after the date of issue of a reader's practising certificate and the balance of the Reading Program within 12 months (or such further time as may be permitted by the Bar Council).
7. Further information concerning the Bar Exam and the Bar Practice Course can be found on the NSW Bar Association website.

Requests for exemption/waiver and who can deal with them

9. From time-to-time persons intending to commence practice at the ACT Bar apply for total or partial exemption from (or waiver of) the requirements to sit and pass the Bar Exam and/or to complete the Bar Practice Course and/or to complete one or more aspects of the Reading Program (**exemption/waiver requests**).

10. The Bar Council has the power to grant a total or partial exemption from, or waiver of, the requirement to sit and pass the Bar Exam, the requirement to complete the Bar Practice Course and/or the requirement to complete the Reading Program (under s 112.1 of the ACT Bar Rules).

Returning to the Bar Policy

11. The Returning to the Bar Policy addresses circumstances in which (and the conditions on which) persons who are intending to recommence practice at the ACT Bar and have not held a practising certificate for two years or less, may be exempted from the requirements to sit and pass the Bar Exam and/or complete the BPC and/or Reading Program.

Purpose and scope of this Policy

12. The purpose of this Policy is to set out the approach to be taken by the Bar Council to requests for exemption/waiver in circumstances where automatic exemption is not provided for or available under the Returning to the Bar Policy, including:
 - (i) overseas practitioners,
 - (ii) Crown Prosecutors wishing to practise at the private Bar in the ACT who have not previously sat and passed the Bar Exam, completed the Bar Practice Course and/or completed the Reading Program, and
 - (iii) persons who are returning to the Bar and more than two years have elapsed since the expiry of their last barrister's practising certificate whether held in the ACT or another Australian jurisdiction.
13. This Policy does not apply to Crown Prosecutors who previously practised at and are returning to the private bar.

Procedure for making exemption/waiver requests

14. Exemption/waiver requests should be made in writing, addressed to the Chief Executive Officer of the ACT Bar Association and submitted in conjunction with the application for an Australian practising certificate. Applications for a practising certificate must be made on the relevant form which is reviewed annually and can be found on the ACT Bar Association website.
15. There is no prescribed form for making an exemption/waiver request. However, persons making such a request should specify whether they are seeking exemption from sitting the Bar Exams, and/or completing the Bar Practice Course and/or completing the Reading Program, and provide any supporting material and reasons they believe will assist the Bar Council in deciding whether or not to approve the exemption/waiver request.

16. The Bar Council will endeavour to determine exemption/waiver requests within 90 days of receipt of the practising certificate application.

Bar Council's approach to determining exemption/waiver requests

17. The Bar Council attaches significant weight to the requirements that all persons intending to commence practice at the bar in the ACT should sit and pass the Bar Exam, complete the Bar Practice Course and the Reading Program.
18. The Bar Exam, the Bar Practice Course and the Reading Program have been designed and refined over decades for the benefit of persons commencing practice at the ACT Bar, their prospective clients, the courts and the wider community. They are designed to ensure that persons commencing practice at the ACT Bar have the knowledge, skills, diligence and ethical qualities necessary to enable them to practice as a barrister. They provide a program and a facility by which persons commencing at the ACT Bar have the support and supervision of one or more experienced barristers in their first year of practice, and provide links with other barristers and the wider legal community. They are also designed to assure prospective clients, courts and the wider community that persons commencing practice at the ACT Bar have the necessary level of competence and professional ethics to justify being entitled to practice as a barrister and enjoy the privileges and immunities attendant on that practice.
19. As a result, requests for exemption from or waiver of those requirements are likely to be approved by Bar Council only rarely, and in compelling circumstances.
20. The Bar Council may grant an exemption from (or waiver of) the whole or a part of the requirement that a person intending to commence practice at the ACT Bar sit and pass the Bar Exam, complete the Bar Practice Course and/or complete the Reading Program when it is satisfied that it is appropriate to permit the applicant to commence practice at the ACT Bar notwithstanding that they have not sat and passed the Bar Exam, completed the Bar Practice Course and/or completed the Reading Program.
21. In deciding whether it is appropriate to permit an applicant to commence practice at the ACT Bar notwithstanding that they have not sat and passed the Bar Exam, completed the Bar Practice Course and/or completed the Reading Program, the Bar Council may have regard to the following criteria:
 - a. the previous study, training or experience, or other relevant personal circumstances, of the applicant;
 - b. the objects of the requirement that persons commencing practice at the ACT Bar sit and pass the Bar Exam and complete the Bar Practice Course and the Reading Program;
 - c. whether, having regard to:
 - i. the previous study, training and experience, or relevant personal circumstances, of the applicant; and
 - ii. the objects sought to be achieved by the Bar Exam, the Bar Practice Course and the Reading Program, requiring the applicant to sit and pass the Bar Exam and/or complete the Bar Practice

Course and/or the Reading Program is unnecessary, inappropriate or unduly onerous.

22. A refusal by the Bar Council of an exemption/waiver request is not to be interpreted as an adverse reflection on the applicant or on the nature or quality of their previous study, training or experience.