



ACT BAR ASSOCIATION

ACT Bar Association Exemption Policy

DEFINITIONS

1. This policy is made by the Bar Council and may be cited as the Exemption Policy. Unless the context requires otherwise:

Act	means the <i>Legal Profession Act 2006</i> (ACT) in force from time to time.
ACT Barristers' Rules	means the <i>Legal Profession (Barristers) Rules 2026</i> (ACT) in force from time to time.
DPP	means the Office of the ACT Director of Public Prosecutions.
Bar Association	means the Australian Capital Territory Bar Association (ACN 008 481 258), a corporation incorporated under the <i>Corporations Act 2001</i> (Cth).
Bar Council	means the Council of the Bar Association.
Bar Exam	means the examination required by the NSW Bar Association to be passed prior to a person undertaking the NSW Bar Practice Course.
barrister practicing certificate	means a barrister practicing certificate granted by the Bar Council pursuant to s 45 of the Act.
Civil Reading	means 10 days undertaken by the Reader in which the Reader participates with a Tutor, or barrister approved by the Tutor, in the following: (a) not less than five (5) days in final hearings; (b) not more than three (3) days for opposed interlocutory matters, including applications for leave to appeal; (c) not more than three (3) days before a Tribunal, Arbitrator or an Inquiry (including a Coronial Inquiry); (d) not more than three (3) days for the hearing of appeals; (e) not more than three (3) days for preparation towards a final hearing; (f) not more than one (1) day participating in a mediation, as long as the mediation lasts for more than 3 hours.
NSW Bar Practice Course	means the course approved by the NSW Bar Association for readers in New South Wales.

Reader	means a person who has been granted a reader practising certificate by the Bar Council.
reader practicing certificate	means a barrister practicing certificate which is subject to readers' conditions.
readers' conditions	means the condition that the person completes the Reading Program in accordance with the Reading Rules together with any other condition imposed by the Bar Council in accordance with s 46 of the Act.
Reading Period	means the period commencing on the day the reader's practising certificate is issued and continuing for 12 months from that day or for such shorter or a longer time as determined by the Bar Council under the Reading Rules or this Exemption Policy.
Reading Program	means the program of instruction for a reader approved by the Bar Council and set out in the Reading Rules.
Reading Rules	means the ACT Bar Association Reading Program Rules approved by the Bar Council from time to time setting out the Reading Program and its associated rules.
Rule	means a rule of the ACT Barristers' Rules.
Tutor	means a barrister eligible to be a Tutor under the Reading Rules and approved by the Bar Council to supervise and teach a reader the skills to engage in legal practice as a barrister.

PURPOSE AND SCOPE OF POLICY

2. The Bar Council is the relevant council with the power to grant and renew barrister practising certificates under s 45 of the Act.
3. The criteria for the grant or renewal of barrister practicing certificates, including reader practicing certificates, are prescribed by the Act and Rules 74A(a) and 74A(b) of the ACT Barristers' Rules.
4. Rule 74A of the ACT Barristers' Rules provides that, in addition to satisfying:
 - (i) the **eligibility requirements** in s 41(2) of the Act (the person is an Australian lawyer and engages or reasonably expects to engage in practice solely or principally in the ACT);
 - (ii) the **application requirements** in s 45(2)(a) of the Act (the application is made in accordance with the prescribed form and the required fees have been paid);
 - (iii) the **fit and proper requirement** in ss 45(3) and 45(4) of the Act (Bar Council is satisfied the person is fit and proper to hold a barrister practicing certificate); and
 - (iv) the **indemnity insurance requirement** in s 311 of the Act (Bar Council is satisfied there is or will be an approved indemnity insurance policy in place for the person unless exempted under the Act);
 - (v) any other requirements for the grant or renewal of a barrister practicing certificate prescribed by the Act,
 the criteria for the grant or renewal of a barrister practicing certificate for the purposes of s 45(2)(b) of the Act are:
 - (a) for a **reader practicing certificate** — the person has:
 - (i) satisfied the eligibility requirement for a reader practicing certificate specified in the Reading Rules; or

- (ii) been exempted from the criteria in subparagraph (i) above by the Bar Council pursuant to the Exemption Policy;
 - (b) for a ***barrister practicing certificate*** (other than a *reader practicing certificate*) — the person has:
 - (i) completed the Reading Program in accordance with the Reading Rules less than two years before the date of applying for the barrister practicing certificate; or
 - (ii) previously been granted a barrister practicing certificate which expired less than two years before the date of applying for the barrister practicing certificate; or
 - (iii) been exempted from the criteria in subparagraphs (i)-(ii) above by the Bar Council pursuant to the Exemption Policy.
5. The purpose of this Policy is to set out the process for seeking, and the approach to be taken by the Bar Council to, requests for an exemption for the purposes of Rules 74A(a) or 74A(b) of the ACT Barristers' Rules, including, for example, in relation to persons who are:
- (a) overseas practitioners, interstate legal practitioners, or Crown Prosecutors who have not previously sat and passed the Bar Exam, completed the NSW Bar Practice Course and/or the other aspects of the Reading Program, or
 - (b) returning to the Bar and more than two years have elapsed since the expiry of their last barrister practising certificate or equivalent held in another Australian jurisdiction.

PROCEDURE FOR MAKING EXEMPTION REQUESTS

6. Exemption requests should be made in writing, addressed to the Chief Executive Officer of the Bar Association and submitted in conjunction with the person's application for a reader practising certificate or a barrister practicing certificate (other than a reader practicing certificate), as the case may be. Applications for a barrister practising certificate (including a reader practicing certificate) must be made on the relevant form which can be found on the Bar Association website.
7. There is no prescribed form for making an exemption request. However, a person making such a request should specify whether they are seeking exemption from:
- (a) the criteria for the grant of a reader practicing certificate in Rule 74A(a) of the ACT Barristers' Rules, namely the eligibility requirement for a reader practicing certificate specified in the Reading Rules, being that the person:
 - (i) has passed the Bar Exam within the preceding 15 months or, such longer period as the Bar Council in its discretion determined; or
 - (ii) previously been granted a reader practicing certificate which expired less than two years before the date of applying for the new reader practicing certificate; or
 - (iii) nominates, at the time of applying for a reader practicing certificate, one or more eligible people to act as the person's Tutor(s).
 - (b) the criteria for the grant of a barrister practicing certificate (other than a reader practicing certificate) in Rule 74A(b), being that the person:
 - (i) has completed the Reading Program in accordance with the Reading Rules less than two years before the date of applying for the barrister practicing certificate; or
 - (ii) has previously been granted a barrister practicing certificate which expired less than two years before the date of applying for the barrister practicing certificate,
- and provide any supporting material and reasons they believe will assist the Bar Council in deciding whether or not to approve the exemption request.

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

BAR COUNCIL'S APPROACH TO DETERMINING EXEMPTION REQUESTS

9. The Bar Council attaches significant weight to the requirements that all persons intending to commence practice at the ACT Bar should sit and pass the Bar Exam, complete the NSW Bar Practice Course and the Reading Program.
10. The Bar Exam, the NSW 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.
11. As a result, requests for exemption from any of those requirements are likely to be approved by Bar Council only rarely, and in compelling circumstances.
12. The Bar Council may grant an exemption from the whole or a part of the requirements of Rules 74(a) or 74A(b) of the ACT Barristers' Rules, including that:
 - (a) a person applying for a reader practicing certificate must have passed the Bar Exam within the preceding 15 months;
 - (b) a Reader complete all aspects of the Reading Program under the Reading Rules, including (but not limited to) completing the NSW Bar Practice Course and completing the Reading Period in full;
 - (c) a person applying for a barrister practicing certificate has:
 - (i) completed the Reading Program in accordance with the Reading Rules less than two years before the date of applying for the barrister practicing certificate; or
 - (ii) previously been granted a barrister practicing certificate which expired less than two years before the date of applying for the barrister practicing certificate,when it is satisfied that it is appropriate to do so.
13. In deciding whether it is appropriate to grant the exemption requested, the Bar Council may have regard to the following criteria:
 - (a) the previous study, training or experience, or other relevant personal circumstances, of the person;
 - (b) whether the person has held a practicing certificate equivalent to a barrister practicing certificate (including a reader practicing certificate) in another jurisdiction and how recently;
 - (c) the objects of the requirement that persons applying for a reader practicing certificate have passed the Bar Exam;
 - (d) the objects of the requirement that persons applying for a barrister practicing certificate for the first time or after more than two years absence from practice have completed the NSW Bar Practice Course and other aspects of the Reading Program within a recent period;
 - (e) whether, having regard to the criteria in subparagraphs (a) - (d) above, requiring the

person to pass the Bar Exam, complete the NSW Bar Practice or any other aspects of the Reading Program or Reading Period is unnecessary, inappropriate or unduly onerous.

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

EXCEPTIONS TO TIME LIMITATIONS FOR FORMER PROSECUTORS

15. A former prosecutor at the DPP will be eligible for an exemption from the requirement in Rule 74A(b) of the ACT Barrister's Rules, being that the person:
- (i) has completed the Reading Program in accordance with the Reading Rules less than two years before the date of applying for the barrister practicing certificate; or
 - (ii) has previously been granted a barrister practicing certificate which expired less than two years before the date of applying for the barrister practicing certificate,
- in circumstances where:
- (a) the person has been employed by the DPP continuously for a period of not less than 5 years; and
 - (b) as a practising prosecutor, the person has predominantly appeared in the Supreme Court of the ACT or the ACT Court of Appeal for not less than 5 years; and
 - (c) the person is given a satisfactory performance reference by the ACT Director of Public Prosecutions; and
 - (d) the person has at any time successfully completed the Bar Exam; and
 - (e) the person has continuously been employed as a practising prosecutor at the DPP in the period between successful completion of the Bar Exam and the relevant date; and
 - (f) the person has at any time successfully completed the NSW Bar Practice Course; and
 - (g) the person has continuously been employed as a practising prosecutor at the DPP between successful completion of the NSW Bar Practice Course and the relevant date; and
 - (h) the person has at any time either successfully completed, or received an exemption from completing, the Reading Program; and
 - (i) the person has continuously been employed as a practising prosecutor at the DPP between successful completion of, or grant of an exemption from completing, the Reading Program and the relevant date.
16. For the purposes of paragraph 15 above, the relevant date is the date on which the former prosecutor makes an application for a barrister practising certificate.
17. For the avoidance of doubt, paragraph 15 above does not limit the power of the Bar Council to grant an exemption request and the Bar Council may, having regard to the criteria in paragraph 13 above, determine that a former prosecutor at the DPP will be eligible for the grant of a barrister practising certificate despite one or more of the circumstances specified in paragraph 15 above not being satisfied at the relevant date.