



INFORMATION FOR ACCREDITED SPECIALISTS

Updated August 2021



THE LAW SOCIETY
OF NEW SOUTH WALES

For further information, specialists should contact:

Specialist Accreditation

E: specialists@lawsociety.com.au

T: 9926 0305

© 2021 The Law Society of New South Wales

Except as permitted under the *Copyright Act 1968* (Cth), no part of this publication may be reproduced without the specific written permission of The Law Society of New South Wales.

Contents

- 4 Becoming accredited for the first time**
 - 4 What fees do I have to pay?
 - 4 Do I have any Continuing Professional Development (CPD) obligations at this point?
- 5 Renewal of Accreditation**
 - 5 What is the Specialist Accreditation renewal period?
 - 5 What are the renewal requirements that I need to satisfy?
 - 6 In order to renew, what are my CPD obligations?
 - 7 How can I calculate my required CPD points?
 - 8 What if I do not meet the renewal requirements?
 - 9 What is the renewal fee?
- 10 Leave of absence**
 - 10 What is leave of absence?
 - 10 How can I request a leave of absence?
 - 10 What are my obligations once I am granted leave of absence?
 - 11 What if I need an extension to my leave of absence?
 - 11 What reinstatement process do I follow on my return from leave?
- 12 Cancellation or Withdrawal**
 - 12 What if I do not renew my accreditation?
 - 12 What if I wish to return after my accreditation has been cancelled?
- 13 Promoting your accreditation**
 - 13 Certificate
 - 13 Specialist Accreditation branding

1. Becoming accredited for the first time

What fees do I have to pay?

Having passed the Specialist Accreditation assessments, a practitioner is eligible to become accredited on payment of the accreditation fee (generally set annually at 50% of the full accreditation fee and advised at the same time as notification of assessment results).

Fees are payable to the Law Society of NSW either by cheque or credit card.

Do I have any Continuing Professional Development (CPD) obligations at this point?

Newly Accredited Specialists are required to complete 5 points of CPD between 1 November and 30 April the following year in the area of accreditation.

2. Renewal of Accreditation

What is the Specialist Accreditation renewal period?

Accredited Specialists are required to renew their accreditation each year. This ensures that the highest standards are maintained for ongoing recognition.

The Specialist Accreditation year runs from 1 May to 30 April with renewal notifications sent to all Accredited Specialists in advance of these dates each year.

What are the renewal requirements that I need to satisfy?

To maintain accreditation specialists must satisfy each of the following criteria:

1. Hold a current solicitor practising certificate;
2. Current solicitor member of the Law Society of NSW or a current full solicitor member of an equivalent body in an Australian State or Territory;
3. Maintain substantial involvement in the area(s) of accreditation, not less than 25% of normal full-time practice.

Note: for Mediation specialists this means not less than 12.5 hours of mediation as a mediator using the Law Society of NSW mediation model (as required to maintain accreditation as a National Mediator);

4. Complete 10 points of CPD in your area of accreditation and maintain and keep records as proof of completion (this is in addition to CPD requirements for practising certificate renewal); and
5. Pay an annual accreditation renewal fee. Refer to page 9 for fee details.

Note:

1. The definition of a solicitor can be found in s.6 of the *Legal Profession Uniform Law Act* (NSW);
2. Practitioners who move from solicitor practice to the Bar after 1 January 2009 cannot reaccredit their Specialist Accreditation;
3. Renewed Specialists who do not hold a current solicitor practising certificate and/or have not renewed their membership with the Law Society of NSW (or equivalent) are not able to hold themselves out as an Accredited Specialist.

In addition to meeting the renewal criteria for reaccreditation it is expected that practitioners will be of good standing have not been subject to adverse action by a regulatory authority. For the purposes of reaccreditation adverse action means:

- a. A finding by a Court or Tribunal of unsatisfactory professional conduct or professional misconduct; or
- b. A decision by a Regulatory or Law Enforcement Agency/ Authority to refer the specialist to a Court or Tribunal;
- c. A finding against the specialist by a Regulatory Authority resulting in the imposition of a caution, reprimand or fine; and/or
- d. Any other finding, allegation or matter involving the specialist which, in the view of the Board, would likely bring the Scheme into disrepute.

Where a practitioner is found to be the subject of adverse action during the reaccreditation process, or during the accreditation year, the Law Society of NSW's Professional Standards Department will verify the nature of the finding and the available information will be submitted to the Board for consideration. The Board may also seek information from the practitioner and must seek such information if it is considering refusing or withdrawing accreditation.

Note:

1. Where a disclosure is made to the Board, but no finding has been made (at the time of consideration) the renewal application may be processed. It is noted that the renewal will be the subject to an ongoing obligation by the practitioner to disclose to the Board if a finding is made.
2. Where a finding has been made the Board may resolve to renew the accreditation, noting that the conduct falls short of the standard of competence and diligence that a member of the public is entitled to expect of a specially competent practitioner and Accredited Specialist.

In order to renew, what are my CPD obligations?

Continuous building of expert knowledge and skills in the area of accreditation is at the heart of Specialist Accreditation. The annual CPD renewal requirement seeks to maintain expertise and quality.

To be eligible for renewal:

- Specialists are required to complete 10 CPD points (per area of accreditation) by 30 April each year. CPD points cannot be counted more than once (i.e. towards CPD required for practicing certificate renewal or where accreditation is held in more than one area);
- The 10 points of CPD is in addition to any CPD required for practising certificate renewal. CPD points must be in the area of accreditation and specialists must maintain and keep records of completed CPD as proof of completion;
- In cases where significant, unforeseen and extenuating hardship has been experienced, a specialist may request that the Board exercise its discretion. Refer to page 9 for further details.

The Board does not accredit CPD providers or courses. The system is based on self-assessment which requires the specialist to determine the number of points claimed for each CPD activity.

How can I calculate my required CPD points?

The following activities are eligible for inclusion in calculation of CPD points.

Note: A quarter of a unit is the minimum fraction available.

Activity	Number of Points
Attending seminars, conferences, lectures and workshops – including on-line seminars	1 point per hour of attendance excluding refreshment breaks
Presentations – research and writing	1 point per hour (to a maximum of 5 points for each presentation)
Presentations – presenting seminars	1 point per hour of the presentation
Private study of video and audio (including podcast, online or web based programs)	1 point per hour (maximum of 5 points per year)*
Committee work (the Law Society of NSW or Young Lawyers committees)	Maximum of 3 points per year
Committee work (Specialist Accreditation Advisory Committee)	10 points per year of membership
Publications	1 point for every thousand words of an article published in a legal publication to a maximum of 5 points (including on-line publishing)

* In light of the now widespread availability of online CPD, the Specialist Accreditation Board of the Law Society of NSW will now be reinforcing the 5-unit cap on private study of audio/visual material for the 2021–22 CPD year. All other CPD renewal requirements must be satisfied unless an exemption or extension of time is granted. When registering for online CPD, the distinction between online seminars (uncapped) and private study of audio/visual material (capped at 5 units) is defined as follows:

- Online seminars provide opportunities for interaction with the material; whereas
- Private study of audio/visual material is passive and does not provide opportunities for interaction.

What if I do not meet the renewal requirements?

Accredited Specialists who have problems fulfilling renewal criteria 3 are able to apply for an exemption or discretion from the Board as outlined below:

3. Maintain a substantial involvement of not less than 25% of total practice

An exemption may be granted where a significant change in work practices has not allowed a specialist to maintain a 25% substantial involvement in their area of speciality.

This request will proceed in the following two methods:

a. For specialists who are solicitors with a significant change in work practices

- The specialist must make a written application outlining their reasons for seeking an exemption and provide precise dates of leave from or changes in normal employment (which must be less than 1 year);
- The specialist must indicate that they have maintained the required 10 CPD points, notwithstanding their reduced substantial involvement in the area on the basis that CPD is a means of maintaining contact with the area of law despite short term reduced level of involvement in that area;
- If the period affected by the exemption request is confirmed as less than 1 year and CPD has been maintained then the specialist is deemed to have been on a constructive leave of absence. If the period is longer than 1 year only the Specialist Accreditation Program will determine the exemption;

or:

b. For specialists who have moved into full-time academia

- The specialist must make a written application outlining their reasons for seeking an exemption, how they have maintained substantial involvement in their area of accreditation as an academic and provide precise dates of changes in normal employment (which maybe for 1 year or more);

- The specialist must indicate that they have maintained the required 10 CPD points, notwithstanding their substantial involvement in the area is now as an academic (and not as a full time solicitor) on the basis that CPD is a means of maintaining contact with the area of law despite reduced level of involvement in that area; and
- In order to renew accreditation, specialists who have moved into full time academia must seek discretion from the Specialist Accreditation Program annually.

The specialist will be sent confirmation of the Program's decision regarding the outcome of an exemption or discretion request and any actions required. Accredited Specialists who have problems completing the required CPD points in the designated time frame are able to apply for an extension of time. **Note:** no exemptions from this requirement are available.

4. Completed 10 CPD points in area of speciality or sub-speciality

An extension of time to complete required CPD points may be granted where one of the circumstances below applies:

a. Extenuating circumstances

Such as an accident or illness that has resulted in serious injury or impairment and has prevented the completion of the required CPD points for accreditation renewal.

- The specialist must make an application outlining the extenuating circumstances, including dates.
- If an extension is granted, the required CPD must be completed by the 30 June in any given year.

b. Planned and confirmed future CPD

Where there are no extenuating circumstances but the specialist has confirmed future CPD (to be completed by 30 June).

- The specialist must make a written application outlining confirmed CPD including completion dates.
- If an extension is granted the required CPD must be completed by 30 June.

- The specialist will be sent confirmation of the decision regarding the extension of time request. The specialist must notify Specialist Accreditation once the CPD requirements have been completed.

Note: If it is anticipated that the circumstances leading to the need for an exemption, discretion or exemption request will continue into the future, the specialist is able to make an application for a leave of absence for up to two years. The Board's approved leave of absence policy is discussed under Section 3 - leave of absence (page 10).

If CPD is not completed and submitted to Specialist Accreditation by the extension due date the specialist will be requested to select from the following options:

- Apply for a leave of absence from the Specialist Accreditation Scheme; or
- Withdraw from the Specialist Accreditation Scheme.

Should the specialist not select an option, the renewal will be taken to the Specialist Accreditation Board for consideration.

c. CPD Exemption

In cases where significant, unforeseen, and extenuating hardship has been experienced, a specialist may request that the Specialist Accreditation Program grant an exemption from the requirement to complete 10 CPD points in their area of specialisation each year.

A specialist applying for a CPD exemption for specialist CPD points must have fulfilled all other renewal requirements. The Leave of Absence policy cannot be applied when applying for a specialist CPD exemption (refer to page 10).

An exemption may be granted in the following cases:

- If a Specialist has been absent from practice due to parental leave or other reasons (such as sick leave, unemployment etc) or their personal circumstances (including significant, unforeseen hardship) have made it difficult for them to meet their 10 specialist CPD requirements for the year, they may be eligible for an exemption.

- If a Specialist has not practised for the full CPD year, they may be eligible for a pro rata exemption for their specialist CPD units.
- If an individual has been practising as a Specialist for a significant period of time, and does not practise as a Principal, they may be eligible for an ongoing specialist CPD exemption. Transition to retirement exemptions must be approved by the Specialist Accreditation Board. All applications will be assessed on a case-by-case basis.

Apart from in transition to retirement cases, if granted, the CPD exemption usually applies to the current specialist renewal period only. The specialist must complete 10 CPD points in their area of specialisation by the 30 April in the following renewal period in order to renew their accreditation in that following renewal period.

If a Specialist wishes to request an exemption from their specialist CPD requirements, they must apply in writing to allow for the application to be properly considered. The request must include sufficient detail around the reason for the exemption, and relevant supporting documentation must also be provided. The Specialist Accreditation Program will consider the request and the specialist will be informed as to the outcome.

What is the renewal fee?

An annual renewal fee applies (\$395.00 inc GST) for each area in which accreditation is held.

A reduction of the annual renewal fee is available for sole practitioners* and government lawyers* only (\$315.00 inc GST).

The renewal fee is set annually and is payable at the time of reaccreditation to the Law Society of NSW.

Payment of the renewal fee is a requirement however should a specialist be unable to pay the fee by the due date (having met all other renewal requirements) the renewal will progress to the Board for determination.

*As defined in the *Legal Profession Uniform Law Act* (NSW).

3. Leave of Absence

What is leave of absence?

A leave of absence from Specialist Accreditation is available to help specialists accommodate a short term or temporary change in situation such as parental leave, practice interstate or overseas or a change in practice focus.

Leave is available for an initial period of up to 2 years (period to be specified by the specialist) and will be determined by Specialist Accreditation on behalf of the Board.

Generally, leave will be granted for a full 12 month period. In special cases part year leave may be granted.

How can I request a leave of absence?

Application for a leave of absence must be made prior to commencing any leave and must outline the reasons for seeking the period of leave.

To be eligible for a leave of absence the specialist must satisfy existing renewal requirements at the time which leave is sought.

If a specialist is unable to satisfy the renewal requirement of 25% substantial involvement they may apply for an exemption (refer to page 8).

If a specialist is unable to complete the required 10 CPD points they may apply for an extension of time to complete (refer to page 9).

The specialist will be advised in writing once a decision has been made. Leave of absence must be confirmed by Specialist Accreditation and is not automatic upon application.

The Board does not grant specialists leave of absence in certain circumstances. This includes, but is not limited to:

- If a specialist did not seek leave prior to commencement, the Board cannot grant it retrospectively. It must be requested prior to commencing leave; and
- If the specialist is unable to pay the renewal fee a leave of absence cannot be granted (this is noting that payment of the renewal fee is a renewal requirement).

If the specialist has been the subject of adverse action (refer to page 5) they must disclose the matter to the Board for consideration.

Should a specialist be unable to request a leave of absence themselves or communicate with Specialist Accreditation during their leave period, they may nominate another individual to act on their behalf. The nominee must have appropriate proof that they have been authorised to work with Specialist Accreditation in relation to such matters.

What are my obligations once I am granted a leave of absence?

Apply for a leave of absence using the relevant form available at lawsociety.com.au/specialists

The following applies to specialists on a leave of absence for the periods outlined below:

1. Leave of absence for less than 12 months

- The specialist is exempt from all renewal requirements for the duration of their period of leave; and
- Upon return from leave the specialist is required to pay an accreditation fee calculated on a pro rata basis.

2. Leave of absence for a 12 month period

- The specialist is exempt from showing substantial involvement;
- Exempt from payment of the renewal fee; and
- Exempt from completing the required 10 CPD points.

3. Leave of absence for more than 12 months

- The specialist is exempt from showing substantial involvement; and
- Exempt from payment of the renewal fee.
- The specialist must complete 10 CPD points in the area of accreditation in the second period of leave following the initial 12 months of leave.

Specialists on a leave of absence are considered to have an inactive accreditation and are not permitted to hold themselves out as an Accredited Specialist and will not appear on the Law Society of NSW website.

What if I need an extension to my leave of absence?

Noting the obligations listed above relating to a leave of absence for more than 12 months, any leave of absence longer than 2 years will be considered by the Board. An additional period of 12 months leave may be considered, however the Board will only approve this additional leave if:

- The practitioner has maintained a practising certificate during the initial 2 year period of leave; and
- The practitioner commits to undertaking 10 points of CPD in that area of law during the additional 12 month leave of absence (after the initial 2 year period of leave) or to undertake 20 CPD points in the 12 months following return from leave.

The practical effect of the upper limit of these years is that a practitioner can no longer be accredited after 3 years absence and must withdraw from the Scheme.

What reinstatement process do I follow on my return from leave?

A specialist returning from a leave of absence must satisfy the following before being reinstated:

- Hold a current solicitor's practising certificate;
- Current solicitor member of the Law Society of NSW or a current full solicitor member of an equivalent body in an Australian State or Territory;
- Payment of the reaccreditation fee (calculated on a pro rata basis); and
- Completion of any required CPD points (before the end of the stipulated leave period).

4. Cancellation or Withdrawal

What if I do not renew my accreditation?

It is the responsibility of the specialist to renew their accreditation by the due date.

If Specialist Accreditation has received no response to scheduled communications or no renewal has been completed and returned by 30 June the practitioners accreditation will be cancelled without noting correspondence required.

What if I wish to renew after my accreditation has been withdrawn or cancelled?

Any former specialist wishing to return following cancellation or withdrawal must submit a written application addressing the following:

- The circumstances which led to the cancellation or withdrawal of accreditation;
- Clear evidence that substantial involvement in the area of accreditation has been maintained since cancellation or withdrawal occurred; and
- Satisfy all of the renewal criteria (refer to page 5).

In addition to the above if the former specialist has not held an active accreditation for 2 years or more a core competency interview must be undertaken.

A core competency interview will be conducted by a panel of relevant advisory committee members. The interview will ascertain if the former specialist fulfills the skills and knowledge requirements to the level associated with accreditation in the relevant area of law. Following the interview a recommendation will be made to the Board and an outcome will be determined.

If successful, the former specialists accreditation will be reinstated.

If unsuccessful the former specialists accreditation will not be reinstated. If they wish to hold accreditation in the area of law they must apply as a candidate the next time it is offered.

Note: Former specialist's who do not meet the above criteria/conditions will be referred to the Board for determination.

5. Promoting your accreditation



It's your accreditation.
Make sure you get the credit.

Gaining accreditation is a valuable and significant achievement and when promoted correctly can differentiate specialists from competitors, enhance reputation and career opportunities, provide a means of identifying proven expertise in a particular area of practice.

- ✓ Use the Specialist Accreditation logo
- ✓ Display your certificate
- ✓ Apply the post-nominals
- ✓ Join a Specialist Accreditation Advisory Committee
- ✓ Gain Mutual Recognition
- ✓ Apply for Advanced Standing for further study
- ✓ Attend the Specialist Accreditation Conference

Certificate

The Specialist Accreditation certificate is an immediate means of identification and promotion. We recommend that all specialists display it as evidence of accreditation.

A replacement certificate can be arranged for a nominal fee of \$30.00 (GST included), please contact the Specialist Accreditation on 9926 0305 or via email at specialists@lawsociety.com.au.

Specialist Accreditation branding

Having earned Specialist Accreditation make sure you use it. All relevant information that you need to help you comply with the Specialist Accreditation Board's guidelines are available on the Law Society of NSW website at lawsociety.com.au/specialists.

THE LAW SOCIETY OF NEW SOUTH WALES

170 Phillip Street, Sydney NSW 2000, DX 362 Sydney

ACN 000 000 699 ABN 98 696 304 966

lawsociety.com.au

T +61 2 9926 0333 F +61 2 9231 5809

E lawsociety@lawsociety.com.au

