



# Guidelines for exemption from the minimum IELTS test scores

## Essential Summary

When determining whether or not a person is a fit and proper person to be admitted to the Australian legal profession, the Legal Profession Admission Board (LPAB) is required to have regard to:

‘...whether the person has a sufficient knowledge of written and spoken English to engage in legal practice in this jurisdiction.’<sup>1</sup>

The LPAB may be satisfied as to an applicant’s English language proficiency in any of three ways:

1. the applicant has undertaken the International English Language Testing System (IELTS) Academic test, and has attained or exceeded the minimum scores in any single instance of undertaking the test within the previous two years, or
2. the applicant has been automatically granted a standard exemption from the IELTS test, on the basis of evidence that he or she undertook an academic qualification in law in a specified country, while living in that country for the entire duration of those studies, or
3. the applicant has undertaken the IELTS test, within the previous two years, not met the minimum scores over one or more attempts, but is not far off and can demonstrate proficiency in other ways.

Only if an applicant has met the criteria at paragraph 3 above, will they be eligible to apply for a special exemption.

These guidelines have been prepared and adopted by the LPAB of New South Wales. The LPAB understands that the Victorian Legal Admissions Board (VLAB) has also adopted the Standard and Special Exemptions set out in these Guidelines.

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Ensure you have the latest version before using this document.

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<sup>1</sup> Rule 10(1)(l) of the Legal Profession Uniform Admission Rules 2015.

## Scope

1. These guidelines apply to applications lodged with the Legal Profession Admission Board of NSW (LPAB) for:
  - a. admission to the Australian legal profession as an Australian lawyer,
  - b. applications for a standard exemption from the IELTS test and
  - c. applications for a special exemption from the IELTS test, where the applicant has not met the minimum scores but can demonstrate English language proficiency in other ways.
2. These guidelines apply to all such applications, regardless of the applicants' race, nationality, ethnicity or the culture with which they identify.

## Objectives

3. The objectives of these guidelines are:
  - a. to specify how the LPAB may determine whether an applicant for admission as a lawyer has sufficient knowledge of written and spoken English to engage in legal practice<sup>2</sup>
  - b. to specify how the LPAB may grant a special exemption and
  - c. to promote consistent and transparent decision-making in relation to applications for a special exemption.

## Definitions

4. '**IELTS test**' means the Academic test module of the International English language Testing System
5. '**Minimum scores**' means the following scores in areas of the IELTS test:

Listening	7.0
Reading	7.0
Writing	8.0
Speaking	7.5

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<sup>2</sup>, For the purpose of Rule 10(1)(l) of the Legal Profession Uniform Admission Rules 2015

6. 'LPAB' means the Legal Profession Admission Board of NSW, or its delegate
7. 'Category T country' means one or more of the following countries where English is both an official language and the primary language:
  - a. Canada (except Quebec)
  - b. New Zealand
  - c. Republic of Ireland
  - d. South Africa
  - e. United Kingdom and Northern Ireland
  - f. United States of America.
8. 'Category V country' means one of the following countries where English is an official language, recognised language or a common medium of instruction in schools:
  - a. Hong Kong
  - b. Malaysia
  - c. Singapore
  - d. Fiji (University of South Pacific only)
  - e. Philippines.

## Standard exemption from the IELTS test

9. The LPAB **may**, of its own motion, grant a standard exemption from the IELTS test where the applicant:
  - a. undertook the academic qualification in law (on which the applicant relies for admission) at a law school that is accredited in Australia, or
  - b. the applicant undertook the academic qualification in law (on which the applicant relies for admission) in a Category T country, and the applicant lived in that country for the entire duration of his or her studies for that qualification.

10. Such granting of a standard exemption occurs during the LPAB's assessment of an application for admission as a lawyer, based on the documentary evidence provided as part of the admission application. There is no need for an applicant to apply separately for a standard exemption.
11. The Board is not required to grant a standard exemption and reserves the right to require any applicant to undertake the IELTS test if there is doubt about the applicant's English language proficiency.

## Special exemption

12. The LPAB **may** grant a special exemption from the IELTS test, if:
  - a. The applicant has undertaken the IELTS test within the last two years and their result is not far off the Board's required minimum score in no more than one section of the test (usually not more than 0.5 off the required minimum score) and
  - b. The LPAB is otherwise satisfied of their English language proficiency.
13. The LPAB may be otherwise satisfied of an applicant's English language proficiency if they can usually demonstrate (with evidence) one or a combination of the following:
  - employment for a substantial period of time<sup>3</sup> in a law-related role in one or more Category T countries
    - o required evidence: at least two letters of reference from employers or supervisors which describe the responsibilities of the applicant's role and how the applicant has demonstrated knowledge of written and spoken English sufficient to engage in legal practice. Both letters must be original, signed and on the organisation's official letterhead.
  - completion of a tertiary degree which is a prerequisite for entry to a profession in a Category T country and with the medium of instruction being English
    - o required evidence: original academic transcript(s) for sighting and copying by the Office of the LPAB.
  - completion of both secondary school and their academic qualification in law (which they are relying on for admission) from a Category V country
    - o required evidence: an original academic transcript(s) for sighting and copying by the Office of the LPAB, and separate documentary evidence which explicitly confirms that the medium of instruction was English.

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<sup>3</sup> A 'substantial period of time' usually means a minimum of at least 12 months' continuous service in a full-time role. Applicants who meet or exceed the minimum period of time are not guaranteed a special exemption, because a range of other factors must be considered by the LPAB, such as the nature of the applicant's role and level of responsibility.

- completion of their Higher School Certificate (or equivalent qualification) from Australia, having undertaken their entire secondary school education in Australia and having received excellent marks especially in English
  - o required evidence: original academic transcript(s) for sighting and copying by the Office of the LPAB.
- having undertaken the IELTS test and achieved all the minimum scores across multiple instances of sitting the test within the previous two years, although not a single instance of sitting the test
  - o required evidence: an original of all IELTS test results within the previous two years.

14. Applications for a special exemption where an applicant has not attempted an IELTS test within the last two years will always be refused. This is because an applicant's IELTS test scores are an appropriate and objective determinant of their English language proficiency.

## Applying for a special exemption

15. To apply for a special exemption, an applicant needs to:

- a. write to the Executive Officer of the LPAB, attaching an original, signed and witnessed statutory declaration:
  - stating factors which demonstrate you have a high proficiency in English, with relevant facts
  - attach an original of all IELTS test results undertaken by the applicant within the previous two years, and
  - consent to the LPAB contacting IELTS to verify any IELTS test results undertaken by the applicant and
- b. attach the required evidence (as referred to in paragraph 13 above), and
- c. pay the prescribed other application/certificate fee (refer to the Table of Fees under 'Forms and Fees' on the LPAB website).

Applications for a special exemption are determined by the Executive Officer pursuant to a delegation from the LPAB.

## When to apply for special exemption

16. Applicants should allow at least 4 weeks from the time of lodging a complete application to obtain a decision.
17. Applications should be lodged well before an application for admission as a lawyer. Early lodgement may help avoid delay in being admitted, if a special exemption is not granted.

## Review of a decision

18. If the Executive Officer refuses an application for a special exemption, the applicant is encouraged to undertake the IELTS test again and provide new evidence of their English language proficiency. They may then request a review of the decision by the Board if they are reasonably close to achieving the required minimum scores and have persuasive evidence of their English language proficiency.
19. A request for review should:
  - a. be lodged with the Office of the LPAB:
    - within one month of the date of the Executive Officer's decision letter, and
    - prior to the 'deadline for general material for consideration at a Board meeting'.<sup>4</sup> These deadlines can be found in the LPAB 'Events and deadlines' calendar at [www.lpab.justice.nsw.gov.au](http://www.lpab.justice.nsw.gov.au), under the top menu item 'Publications and resources'
  - b. attach an original, signed and witnessed statutory declaration which:
    - specifies the ground on which the review is sought
    - how the LPAB can be satisfied of the applicant's English language proficiency (with evidence)
    - provide all additional original IELTS test results undertaken or not already provided
    - provides fresh information and/or demonstrates how the original decision was erroneous. Requests for review which merely re-state previously-considered facts will generally be unsuccessful
  - c. pay the prescribed other application/certificate fee (refer to the Table of Fees under 'Forms and Fees' on the LPAB website).

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<sup>4</sup> Requests for review which are received after the deadline will be held over until the Board's next meeting.

20. If satisfied that the special exemption would have been granted if the information in the request for review had been available at the time of determining the original application, the Executive Officer may grant the special exemption without referring the request for review to the Board. In all other cases, the Executive Officer will refer the request to the next available meeting of the Board.

## References

Rule 10(1)(l) and 10(2) of Legal Profession Uniform Admission Rules 2015

Section 17(2)(b) of the *Legal Profession Uniform Law (NSW)*

Section 6 of the Law Admissions Consultative Committee's Uniform Principles for Assessing Qualifications of Overseas Applicants for Admission to the Australian Legal Profession, February 2015

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## Document information

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## Document history

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2.0	13/10/2017	Published after amendments recommended by the Board on 28 March 2017.

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