



Are you practising as a **government lawyer** **but not admitted?**

Fact Sheet

Recent changes to the law mean you may need to take action – and soon!

If you started practising as a government lawyer in New South Wales **after 1 July 2015**, but have not been admitted to the legal profession, you must:

1. notify the NSW Legal Profession Admission Board, within 12 months of commencing such practice, and
2. become admitted, and hold a practising certificate, **no later than 30 June 2018**.

What has changed?

Prior to the commencement of the *Legal Profession Uniform Law (NSW)* on 1 July 2015, corporate and government lawyers in NSW were exempt from the requirement to be admitted or to hold a practising certificate in order to engage in legal practice.

There is no equivalent exemption under the *Legal Profession Uniform Law (NSW)*. This means that some government lawyers in NSW will soon be required to become admitted and to hold a practising certificate (including some Australian Government and local government lawyers).

The intention behind this change is to regulate all persons engaged in legal practice and ensure they comply with regulatory obligations such as continuing professional development (CPD).

The Uniform Law requirements for practising certificates also make it easier for legal practitioners to move between private, in-house and government practice.

The NSW Government has introduced transitional arrangements which will help to manage the impact of this change.

Permanent exemption

If you were employed as a government lawyer in the 12 months prior to the commencement of the Uniform Law on 1 July 2015, and you were not admitted to the legal profession as at 1 July 2015, you will be permanently exempt from the requirement to become admitted and to hold a practising certificate, while you continue to work as a government lawyer.

Transitional exemptions

If you commenced work as a government lawyer after 1 July 2015, you will be exempt from the requirement to become admitted and to hold a practising certificate **until 1 July 2018**.

If you are a government lawyer who had already been admitted as at 1 July 2015, but you do not currently hold a practising certificate, you will be exempt from the requirement to hold a practising certificate **until 1 July 2017**.

These exemptions are set out in clause 19 of the Legal Profession Uniform Law Application Regulation 2015.

Giving notice if you are practising pursuant to a transitional exemption

Any government lawyer who is practising pursuant to a transitional exemption in clause 19 must give notice of relying on the exemption.

If you were not already admitted when the exemption first commenced to apply to you, you must give notice to the NSW Legal Profession Admission Board (LPAB) **within 12 months** of engaging in practice pursuant to the exemption.

In all other cases you must give notice to the Bar Council or Law Society Council **within 6 months** of engaging in practice pursuant to the exemption.



An online form to notify the LPAB is available at www.lpab.justice.nsw.gov.au/clause19notice. The online form takes just a few minutes to complete, and provides immediate confirmation of your notification.

If you are permanently exempt from the requirement to become admitted and to hold a practising certificate, you do not need to notify the LPAB.

Applying for admission as a lawyer

An application to become admitted to the Australian legal profession in NSW must be made to the LPAB. The LPAB publishes a comprehensive 'Guide for Applicants for Admission as a Lawyer in NSW', which can be downloaded from www.lpab.justice.nsw.gov.au. An admission fee applies (currently \$900).

You should prepare to apply for admission sooner rather than later (and not delay until 2018) if you:

- completed an academic qualification in law in a foreign jurisdiction (outside Australia), or
- completed practical legal training requirements for admission and have been admitted in a foreign jurisdiction (outside Australia), or
- completed an academic qualification in law in Australia, or practical legal training in Australia, more than 5 years before you apply for admission.

This is because, in each of the above circumstances, you may need to obtain an assessment of your academic qualification and/or your practical legal training and work experience, before you can apply for admission.

You should allow up to three months for the assessment process. You should also take into account that, depending on your particular circumstances, you may be required to undertake further academic study or training before you can apply for admission.

Details about how to obtain these assessments are in Sections 5 and 7 of the 'Guide for Applicants for Admission as a Lawyer in NSW'.

Applying for a practising certificate

Admission to the legal profession does not of itself entitle a person to engage in legal practice, but is a prerequisite for being able to apply for an Australian practising certificate, which entitles the holder to engage in legal practice.

An application for a practising certificate in NSW must be made either to the Law Society of NSW (to practise as a solicitor) or the NSW Bar Association (to practise as a barrister).

More information

More information is in the information sheet titled 'Government Lawyers' which has been issued by the Legal Services Council and is available at www.legalservicescouncil.org.au. It includes the definition of 'government lawyer', details about the prohibition against unqualified legal practice, how pro bono work is affected, and implications for fidelity fund contributions and Professional Indemnity Insurance (PII).

Useful links

Notice of practice pursuant to exemption
(to LPAB, if not admitted when exemption commenced)
www.lpab.justice.nsw.gov.au/clause19notice

(to Law Society Council)
www.lawsociety.com.au/ForSolicitors/practisinglawinnsw/formsdirectory/index.htm

Admission as a lawyer in NSW
www.lpab.justice.nsw.gov.au

Practising certificates (solicitor)
www.lawsociety.com.au

Practising certificates (barrister)
www.nswbar.asn.au

About the Uniform Law
www.legalservicescouncil.org.au

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Under the Uniform Law, 'government lawyer' means a person who engages in legal practice only: a) as an officer or employee of a government authority; or b) as the holder of a statutory office of the Commonwealth or of a jurisdiction; or c) in another category specified in the Uniform Rules. A government authority includes a Minister, government department or public authority. 'Engaging in legal practice' does not include policy work, such as developing or commenting on legal policy. For the purpose of the transitional arrangements, NSW defines 'government lawyer' as a government lawyer with official functions in NSW, in the Commonwealth or in any other jurisdiction. Further detail is in the Legal Services Council's information sheet 'Government Lawyers' at www.legalservicescouncil.org.au