

Guide 12

SPECIALIST
ACCREDITATION
SCHEME

2012 GUIDE
TO APPLICATION
AND ASSESSMENT



THE LAW SOCIETY
OF NEW SOUTH WALES



For enquiries related to the 2012 Program contact:

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PRESCRIBED FORMS

2012 Application for Specialist Accreditation (FORM 1)

Application for Exemption from Eligibility Criteria 3-5 (FORM 2)

Application for Advanced Standing (FORM 3)

2012 Specialist Accreditation Program Timetable

The shaded area below shows the core assessment period starting with the date when the take home components are sent out and finishing at the end of July when the exams and interview elements are completed. Candidates need to focus on this core assessment timeframe, and plan their workload, well in advance, accordingly. From experience, and feedback reports from previous years, candidates are encouraged to dedicate their time during this period to optimise their performance across all the assessment tasks. You are reminded that participating in the specialist accreditation program requires a considerable level of commitment if candidates are to achieve their desired outcome.

Task	Date
Question and Answer sessions for potential candidates	February /March 2012
Applications for Specialist Accreditation close	Monday 16 April 2012
Take Home Assessments (ie Take Home Exam, Take Home Assignment, Mock File) Business and Personal Tax, Government and Administrative Law, Immigration Law, Local Government and Planning Law, Personal Injury	Monday 21 May 2012
Take Home Assessments due	Wednesday 13 June 2012
Formal Written Examinations for Immigration and Personal Injury	Saturday 28 July 2012
Live Assessment Peer Interview for Government and Administrative Law and Local Government and Planning	Saturday 28 July 2012
Live Assessment Peer Interview for Personal Injury Simulated Interview for Immigration Law	Sunday 29 July 2012
Results released to candidates	From 2 October
Reassessments and/or Appeal application close	14 days from result of notification
Reassessment results release	Early December
Cocktail Reception for new specialists	Early December
Appeal results released	February 2013



About the Specialist Accreditation Scheme

Specialist Accreditation is an opportunity for practitioners to demonstrate their competency, have their expertise in a particular area affirmed and acquire a reputation for excellence in their chosen area.

Established in 1992, the Scheme aims to:

- Provide practitioners with an incentive and opportunity to demonstrate their competency in their chosen area of practice;
- Offer the public and the profession a reliable means to identify a practitioner with proven capability in a specific area; and
- Encourages improvement in the quality and delivery of legal services.

Accreditation is offered across 14 areas of practice generally every 2-3 years:

<u>Business Law</u>	<u>Family Law</u>
<u>Business & Personal Tax</u>	<u>Government and Administrative Law (new area)</u>
<u>Children's Law</u>	<u>Immigration Law</u>
<u>Commercial Litigation</u>	<u>Local Government & Planning Law</u>
<u>Criminal Law</u>	<u>Personal Injury Law</u>
<u>Dispute Resolution</u>	<u>Property Law</u>
<u>Employment & Industrial Law</u>	<u>Wills & Estates Law</u>

▶ In 2012, practitioners can apply to be accredited in the following areas:

Business and Personal Taxation Law

Government and Administrative Law

Immigration Law

Local Government and Planning Law

Personal Injury Law

For further information on the Scheme please visit our website at <http://www.lawsociety.com.au/specialists>

Submitting an application

What are the eligibility criteria?

Practitioners who apply need to satisfy the following criteria:

- 1 Hold a current solicitor's practising certificate; and
- 2 Have practised for five years on a full-time basis, or equivalent; and
- 3 For the three years prior to application, demonstrate a substantial involvement in the area; and
- 4 Time devoted to this area of practice in each year of the past three year period is not less than 25% of normal full-time practice; and
 - 4.(i) In relation to any period during which the practitioner has worked part-time in the 3 years preceding this application, the practitioner has undertaken work in this area not less than the equivalent of 25% of full time employment (for example: not less than 2.5 days per fortnight working exclusively in the area).
- 5 Be a solicitor member of the Law Society of New South Wales or be a full solicitor member of an equivalent state or territory body in Australia.

Please note:

The definition of a solicitor can be found in Section 4 of the Legal Profession Act (NSW) 2004.

When calculating years in practice, 'years' run from the date of commencement of practice to 30 June in the year of application.

Time spent must not be less than 25% of normal full-time practice or its equivalent. It is possible for a practitioner who is not working full time but is involved in the specialty area for the equivalent of 25% of normal full-time practice to be eligible for accreditation.

How can I apply?

Practitioners interested in becoming an accredited specialist need to submit a completed *2012 Application for Specialist Accreditation* (FORM 1) together with payment of the application fee by 16 April 2012.

What if I do not meet these criteria?

If an applicant does not fully meet the requirements, it is possible to request that the Specialist Accreditation Board (the Board) uses its discretion to accept an application.

All such requests must be submitted in writing using the *Application for Exemption of Eligibility Criteria 3-5* (FORM 2) and supported by the following documents:

- 1 Completed *2012 Application for Specialist Accreditation* (FORM 1).
- 2 *Application for Exemption from Eligibility Criteria 3-5* (FORM 2) accompanied by a one page summary in support of the claim and two referee reports submitted using *Referee Report to Support Application for Exemption*.



All the required forms are available with this Guide or online:

<http://www.lawsociety.com.au/specialists>


Do I need a referee at the time I apply?

Yes. There are two ways that referees are used in the Specialist Accreditation process:

- 1 All applications must have the contact details of at least three legal practitioners currently on the Roll of Legal Practitioners who will be willing to act as a referee for the candidate. A maximum of one referee may be a co-worker or partner at the same firm. Referees may not be close personal friends or members of the Board or relevant Advisory Committee.

Your referees may be contacted by the Advisory Committees if there is some discrepancy in your results or a borderline score. The questions that may be asked of your referee are:

- Length of acquaintance with candidate.
 - Experience of the candidate as a solicitor, citing specific examples.
 - Whether the referee considers the candidate to be 'specially competent' in the chosen field of specialisation, and on what basis that judgment is made.
 - Whether the referee believes that the candidate has the required knowledge of the law and procedures which underpin the performance of tasks in this area of practice, and on what basis that assessment is made.
 - Assessment of the candidate's ability to interact with clients, understand the key issues, and their capacity to plan and communicate their ideas.
 - Any other comments.
- 2 Those applicants who have submitted a *Application for an Exemption from Eligibility Criteria 3-5* must provide 2 referee reports to support their application in the prescribed form. A maximum of one referee may be a co-worker or partner at the same firm. Referees may not be close personal friends or members of the Board or relevant Advisory Committee.

 **All applications must be received by 16 April 2012.
Late applications will not be accepted, as this would
disrupt the assessment timetable for candidates.**

How can I get further information about the Scheme and what's expected?

Before submitting an application, you should read the **Assessment Requirements** for the specific area of practice in which you are interested. The Assessment Requirements outline the performance criteria which a candidate must demonstrate to the level of a 'specially competent practitioner' in order to be successful, as well as detailing the core areas of knowledge expected of candidates.

A copy of the Assessment Requirements for each area of practice offered in 2012 can be downloaded from the website at <http://www.lawsociety.com.au/specialists/>.

Applicants are strongly encouraged to attend the **Information Session** held prior to the closing date for applications. This event will give applicants the opportunity to ask questions of the Advisory Committees regarding:

- core knowledge and skills;
- the assessment components; and
- any administrative questions.

Assessment Sample Kits are also available for the areas of practice to be offered in 2012. The kits contain samples of assessments submitted in previous years, as a showcase of the standard of work expected from candidates. Please note the assessment content will vary from year to year, however the expected standard remains constant. Please also note a kit might not be available for all areas being offered.

The kits can be purchased for \$150 from the Law Society Shop, 170 Phillip Street, online at <http://eshop.lawsociety.com.au> or at the Information Sessions.

What is the application fee?

A fee of \$912 (including GST) applies and this fee assists in covering the cost designing assessments, conducting exams, marking and the processing of results.

This fee is payable to the Law Society of New South Wales and may be paid by cheque or credit card.



Submitting an application

What happens to my application once it is received?

Applicants will be sent confirmation of receipt of their application by email as the application is received.

The following actions are taken by the Specialist Accreditation Department before applicants can be informed of the outcome of their application:

- 1 The Law Society's Professional Standards Department is asked to advise of any adverse conduct finding* that have been made against an applicant; and
- 2 The Board considers any applications where such findings have been made, or where the eligibility criteria have not been met.

* For the purposes of an application for accreditation:

- a finding by a Court or Tribunal of unsatisfactory professional conduct or professional misconduct; or
- a decision by a Regulatory or Law Enforcement Agency/Authority to refer the member or applicant to a Court or Tribunal;
- a finding against the member or applicant by a Regulatory or Law Enforcement Agency/Authority resulting in the imposition of a caution or reprimand on that person; and/or
- any other finding, allegation or matter involving the member or prospective member which, in the view of the Board, would likely bring the Scheme into disrepute.

Once these actions have been completed, written confirmation of acceptance as a candidate for the 2012 Specialist Accreditation Program will be sent to Applicants by mid May.

Upon acceptance, all candidates will be provided with access to the **Candidate Forums** on the Specialist Accreditation website. There is a forum for each area of practice, divided into topics for ease of locating information and discussion.

The forums will be used for a number of purposes:

- For the Specialist Accreditation Department and Advisory Committees to post information which may be useful for candidates in general
- For the Specialist Accreditation Department to address questions from candidates that maybe relevant to other candidates
- Distribution of the Take Home Assessment

The candidate forums can be accessed through the '2012 Program' section of the Specialist Accreditation website.

Am I able to withdraw my application?

Yes, you are able to withdraw your application. However, the availability and quantum of refund if you do so will be affected by the administrative work that had to be completed to process your application to that point as set out in the table below:

Date	Refund %
Before application closing	100%
Before first assessment released	50%
After first assessment is released	0%

Those having to withdraw need to do so in writing to the Specialist Accreditation Business Manager by the specified dates, in order to be eligible to receive a refund of the application fee.

Confirmation of withdrawal will be provided in writing by the Specialist Accreditation Department together with any relevant refund.



Doing the assessments

What is the expected performance standard?

The standard to be applied in the Specialist Accreditation Scheme is to be the standard of a “specially competent practitioner” in the core skills and practical capabilities in the selected area of the law, as assessed against the spectrum of capability of all practitioners in that area of the law. This standard is to be distinguished from the idea that the Scheme requires the highest technical legal knowledge across all aspects of the selected area of law.

Further information on the application of the performance standard in each area of practice offered can be found in the Assessment Requirements for that area of practice.

These documents can be found on the website at <http://www.lawsociety.com.au/specialists>.

What are the methods of assessment?

The methods of assessment vary between areas, but generally include:

-
- Take home assessments, such as: Mock File
Take Home Examination, Take Home Written Advice
Portfolio of Documents
Resume of Work

 - Live assessments, such as: Peer Interview
Simulated Interview
Mock Hearing
Simulated Scenario

 - Formal written examinations
-

The general character of some assessment components is described below:

Assessment Type: **Take Home Assessment**

Mock File *Mock Files require candidates to undertake tasks required in practice, such as written advice to clients and draft documents. Candidates are required to return the work within a period of time which may include 3 weekends. In some areas of accreditation, candidates are given a choice of elective sub-specialities for the Mock File.*

Take Home Examination *The Take Home Examination requires candidates to answer several questions focussing on the application of legal knowledge. Candidates are required to return the work within a period of time which may include 3 weekends. In some areas of accreditation, candidates are given a choice of elective sub-specialities for the Take Home Examination.*

Portfolio of Documents / Resume of Work *A Portfolio of Documents or Resume provides evidence to Advisory Committees of a candidate’s suitability for accreditation based on practical experience. Generally de-identified copies of real documents produced by the candidate are requested. For Resumes, an additional statement by the candidate is required according to the issues listed in the Assessment Requirements.*

Assessment Type: **Live Assessment**

Peer Interview *A Peer Interview is conducted by a panel of assessors with expertise in the relevant area of practice, asking questions regarding legal practice and/or the candidate's mock file, if appropriate. The interview is recorded.*

Simulated Interview *A Simulated Interview requires candidates to interview a person acting the part of a client. The interview is time limited and recorded, and the assessment is made from the recording. Candidates will be required to conduct a simulated process between two parties. The exercise will take approximately 2 hours, and will be recorded. The recording will be assessed by the Assessors. This exercise is intended to assess the practical skills of the candidate, including those relating to interaction between the dispute resolution practitioner and the parties.*

Mock Hearing *A Mock Hearing requires candidates to display their advocacy skills, making a presentation to a mock court according to a scenario which is usually distributed in advance. The hearing is recorded.*

Assessment Type: **Written Examination**

Open book written exam *A written examination, generally 3 hours in length with some reading time, where candidates are permitted to bring into the examination any books, notes, legal services or other texts. The examination generally requires answers to several questions focussing on the application of legal knowledge.*

Closed book written exam *A written examination, generally 3 hours in length with some reading time, where candidates are not permitted to bring resources into the examination. The examination generally requires answers to several questions focussing on the application of legal knowledge.*



Doing the assessments

When and where are assessments held?

In order to work within the range of commitments that candidates will have, face to face assessments (such as, examinations and interviews/mock hearings) are held on a weekend.

To find out the location of assessments for the 2012 program, candidates should consult the specific Assessment Requirement for their area of practice.

Are there any exemptions from assessments that I can apply for?

Yes. There are three options available to candidates to request Advance Standing and they are as follows.

Option 1: The Specialist Accreditation Board allows candidates who have completed recent and significant study in the same area of practice in which accreditation is sought to apply for Advanced Standing. Particular arrangements apply to the College of Law's Masters (Family Law).

The criteria for Advanced Standing are:

- The Candidate has successfully undertaken postgraduate study within the 3 years prior to the application for accreditation; and
- The study was in the same area of practice in which accreditation is sought.

Candidates wishing to apply for Advanced Standing should submit *Application for Advanced Standing (FORM 3)* with all required documentation along with their *2012 Application for Specialist Accreditation (FORM 1)*.

The request will be assessed by the Business Manager and the Head Assessor of the relevant Advisory Committee for determination, taking into account the following factors:

- Relevance and/or extent of the postgraduate study;
- Advance nature of the study;
- The credentials of the institution and/or the course undertaken; and
- Other relevant factors.

Please Note: When making a determination whether to grant a request for Advance Standing the Advisory Committee will have regard to the extent to which the further study undertaken and completed by the candidate contained and assessed skill and knowledge equivalent to that being assessed in the Specialist Accreditation assessments. Once a determination has been made, written confirmation of the outcome will be sent to candidates.

Option 2: Those candidates who have recently completed the College of Law's Master of Applied Law (Family Law) are also allowed to apply for Advance Standing.

Candidates wishing to apply for Advanced Standing should submit *Application for Advanced Standing (FORM 3)* on the basis of a Masters of Applied Law (Family Law) from the College of Law with their *2012 Application for Specialist Accreditation (FORM 1)*.

The application must include all relevant documentation (official transcript and subject descriptions) in order to expedite processing of the application.

Once the application is processed, Advanced Standing will be granted in the form of a waiver of the requirement to successfully complete the formal written examination.

component only. (Please note that specified Advanced Standing is not available for individual subjects or for the Graduate Diploma or Graduate Certificate).

Candidates should also note the following:

- Advanced Standing will only be granted for the postgraduate course of study which is complete; and
- A College of Law Masters program for which Advance Standing is sought must have been completed within three years of the application for advance standing.

Upon successful processing of the application, written confirmation of the outcome will be sent to the candidate.

Option 3: Those candidates who have recently completed (ie within the 3 years prior to the application for accreditation) the Diploma of Advanced Taxation, from the Tax Institute of Australia (the Institute) are also allowed to apply for Advance Standing.

As such candidates will;

- Be granted an exemption on the formal examination component; and
- May also satisfy one or more of the questions in the mock file (at the discretion of the advisory committee for Business and Personal Taxation Law)

Candidates wishing to apply for Advance Standing should submit Application for Advance Standing (FORM 3) on the basis of a Diploma of Advance Taxation from the Institute with their *2012 Application for Specialist Accreditation* (FORM 1). The application must include all relevant documentation (official transcript and subject descriptions) in order to expedite processing of the application.

What if I experience a problem performing my assessment?

The following procedures apply to those candidates who experience a problem performing their assessment(s) and who wish to request special consideration as a result of this.

1 Request for an extension of time for assessments

- a A request for special consideration in the form of an extension of an assessment date must be in writing to the Business Manager, Specialist Accreditation and **must be submitted before the due date**.
- b This written notification must be in sufficient detail and supported by relevant documentation, such as a medical certificate, accident report, statutory declaration, etc.
- c This request must demonstrate that the candidate is unable to meet the date due to circumstances that are unplanned and unforeseeable. Pressure of work or holidays will not be accepted as reasons. It is assumed that candidates will be able to meet the published timetable.
- d The request will be considered by the Business Manager, Specialist Accreditation and if necessary referred to the Advisory Committee for determination.

2 Missing face to face assessments such as examination and/or interviews (peer or simulated)

- a If a candidate fails to attend an assessment through 'misadventure' (e.g. an accident or illness) they must submit a written notification to the Business Manager, Specialist Accreditation within 48 hours of the assessment date. Failure to appear and failure to notify will result in automatic failure of that assessment component.
- b The request for special consideration will be considered by the Business Manager, Specialist Accreditation and referred to the Advisory Committee for determination.
- c The candidate may be maintained in the assessment process (with supplementary assessment undertaken as determined) if it is determined that this is appropriate and fair in the circumstances having regard to the nature of the misadventure and its impact.

3 Experiencing a problem on the day of the assessment(s)

- a Those candidates who attend an assessment but experience a problem which significantly affects their performance on that day (such as illness or other extenuating circumstances) must bring it to the attention of the examination supervisor.
- b Candidates are encouraged to complete as much of the assessment as they are able.
- c The candidate must submit a request for special consideration to the Business Manager, Specialist Accreditation within 48 hours of the assessment time.
- d The written notification must have sufficient detail that supports the request for special consideration.
- e The request will be assessed by the Business Manager, Specialist Accreditation and the determination and supporting reasons notified to the relevant Advisory Committee either for information or determination.
- f If accepted, the candidate can be maintained in the assessment process (with supplementary assessment undertaken as determined).

Candidates who submit a request for special consideration will receive confirmation of the request by email.

4 Request for reasonable adjustment for disability or impairment

- a. A request for reasonable adjustment by a candidate with a disability or impairment (ie Hearing, Mobility, Visual or Other) must be made in writing to the Business Manager, Specialist Accreditation **once there has been confirmation of candidature.**
- b. This written notification must be in sufficient detail and supported by legible medical documentation from the candidate's consulting specialist regarding their disability or impairment, how it impacts on undertaking the required assessments and what reasonable adjustment are being requested (ie extra time to complete a formal examination, need to use a laptop with special software during the live assessment and/or formal examination or access to the assessment venue).
- c. The request will be considered by the Business Manager in consultation with the Head Assessor of the relevant Area of Law.

Once a decision has been made, candidates will be sent written confirmation of the outcome and next actions.

What happens to the assessment material submitted by candidates?

All documents submitted during the course of the assessments become the property of the Law Society of New South Wales and will be held in confidence.

The assessment material of successful candidates will be held by the Specialist Accreditation Department for six months after the final results are released. These materials may be used in a de-identified form to compile the **Assessment Sample Kits** the next time the area of practice is offered. If this were to happen specialists would be informed in writing as a matter of courtesy.

What happens to my documentation and assessment materials if I fail?

The documentation (i.e. application forms, other records) and assessment of failed candidates are retained by the Specialist Accreditation Department for a period of one year. Applicants should keep a copy of all material submitted.



The assessment and notification process

What happens following my final assessment?

Candidates will receive notification of their results in early October. Candidates will be notified in writing only. No results will be communicated over the phone.

Candidates will be provided with overall comments for each assessment, regardless of whether they have passed or failed to gain accreditation.

What are the marks awarded?

Only one of two marks, pass or fail, will be awarded. Candidates must pass every form of assessment to be eligible for accreditation. In relation to assessments, the decision of the Board is final.

What are my options if I do not pass an assessment?

Candidates have two options available to them if they do not successfully pass an assessment. These could generally be characterised as merit and process reviews.

1 Reassessment:

This is essentially a merit review. Candidates who fail one form of assessment are able to apply for reassessment. However, reassessment is not available if there has been a failure in more than one form of assessment. The candidate should consider whether the assessor's comments adequately reflect their performance before submitting an application for reassessment.

The reassessment is carried out by an assessor who has not previously assessed the candidate. The re-assessor reviews the original assessment and states whether he or she agrees with it. Referees may be contacted as part of this process.

A non-refundable fee of \$150 (incl. GST) applies to an application for reassessment.

Candidates will be sent written advice of the result once the reassessment is completed, and no comments will be provided to the candidate.

2 Appeals:

This is a process review option in that candidates have the opportunity to submit a request for an Appeal once they have received their result notification where they believe that their performance or result has been affected by alleged procedural error in the way the assessment process is alleged to have occurred.

Appeals will consider whether procedures were applied differently and adversely in the case of the candidate.

The test for procedural error is where one or more of the following applies:

- The candidate was not given the opportunity to seek special consideration for problems affecting candidacy;
- The candidate was given wrong, incomplete or conflicting information in writing;
- The candidate demonstrates that there was bias in the assessment process that disadvantaged them; and
- The established procedure for assessments was not followed.

If it is established that there was a matter of procedural error, those determining the appeal may not re-open or change the original assessment but may:

- Order a fresh assessment; or
- Refer the assessment to the Board for further consideration

Candidates will be sent written advice once a determination has been made.

Requests for reassessment and/or Appeal must be made in writing in the required form, setting out the grounds upon which the request is made. Requests must be received by the Specialist Accreditation Department within 14 days of receipt of result notification.

What are my options if I do not successfully gain accreditation following a reassessment or appeal?

Unsuccessful candidates will need to reapply the next time the area of practice is offered.

The unsuccessful candidate will have to re-sit all assessments afresh. No single form of assessment can be taken into the next assessment period.

What happens once I have successfully completed my assessments?

Candidates who successfully complete their assessments are eligible to be granted accreditation, on payment of the first accreditation fee of 50% of the normal reaccreditation fee.

The Specialist Accreditation Department hosts an annual event to acknowledge the newly accredited specialists and a certificate of accreditation is awarded.

Newly accredited specialists may use the Specialist Accreditation logo and a post nominal for advertising and promotional purposes.

Can I count the assessment process that I have undertaken toward Mandatory Continuing Legal Education (MCLE)?

Regardless of whether a candidate successfully gains accreditation, undertaking the assessment process fulfils their Mandatory Continuing Legal Education (MCLE) requirements for that year.

(Please note: Your obligation may remain to undertake at least 1 MCLE/CPD unit in relation to satisfying requirements under Regulation 176).



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