

Practising certificates

The Law Society is the licensing body for solicitors and also issues practising certificates to barristers. Application forms have changed but the fundamental process remains the same.

1. What kind of practising certificate should I hold?

There are three kinds of ACT practising certificate: unrestricted; restricted; and barrister (s 35).

An unrestricted practising certificate is required for a person who wishes to be a legal practitioner director of an incorporated legal practice, a principal in a firm, a sole practitioner or to supervise a private sector practitioner during his or her prescribed period of supervision.

A restricted practising certificate is suitable for employee solicitors in firms and incorporated legal practices. Generally, it will not entitle the holder to handle trust money.

A barrister practising certificate is suitable for those who wish to practice solely as an advocate. A barrister may not receive trust money (s 220).

2. Can I practice in the ACT with a practising certificate from another jurisdiction?

Yes. You can practice in the ACT with any Australian practising certificate, but you must comply with the ACT's *Legal Profession Act 2006*. Should the ACT become your principal place of practice you are likely to be required to obtain an ACT practising certificate (s 41).

3. How do I apply for a practising certificate?

If you wish to apply for an unrestricted or restricted practising certificate, contact the Law Society.

If you wish to apply for a barrister practising certificate, contact the Bar Association.

Practitioners who already hold an ACT practising certificate will automatically be sent an application at renewal time.

4. How much is a practising certificate?

Fees are notified on the ACT Legislation Register under 'Disallowable Instruments – Legal Profession Act 2006'.

5. When do I apply?

ACT practising certificates expire on 30 June each year. Applications for renewal must be made between 1 April and 31 May. Late renewal applications may be considered.

If you do not hold a practising certificate, you can apply at any time. You must hold a practising certificate or other entitlement before engaging in legal practice.

6. What criteria apply?

To be granted a practising certificate, you must:

- Be admitted to the Australian legal profession (ss 41(1));
- Be 'eligible' through your connection with the ACT, such as by having an ACT office (ss 41(2));
- Be 'suitable' or a 'fit and proper person' to hold a practising certificate (ss 11, 36 and 44); and
- Provide a statement about any 'show-cause event' that has occurred since your admission and has not been previously disclosed (Division 2.4.7).

Further criteria apply for an unrestricted or barrister practising certificate.

- You must arrange appropriate professional indemnity insurance (s 38). Insurance requirements differ for government and in-house practitioners.
- You must meet standard Law Society or Bar Association requirements about training and experience (s 47 and regulations).

Unrestricted practising certificate holders must contribute to the fidelity fund. This is levied as part of the practising certificate fee.

7. Can I appeal a licensing decision?

Yes. If refused, you will be provided with an information notice setting out reasons for the decision and your rights of appeal to the Supreme Court.

8. What conditions apply to practising certificates?

If you hold a practising certificate, you must not:

- Hold any other Australian practising certificate at the same time (ss 35(3)); or
- Contravene conditions imposed on your admission if admitted interstate (ss 48 and 50).

You must:

- Comply with any condition stated on your application or certificate;
- Meet any disciplinary conditions imposed on you (ss 46, 69 and Chapter 4); and
- Notify the Law Society or Bar Association within 7 days if convicted or charged of certain offences or if a 'show-cause event' occurs (ss 51 and 61).

If you work in the private sector, you must not engage in unsupervised legal practice until you have completed the prescribed period of supervision (usually 2 years – see s 50 and Regulation 13).

If you hold an unrestricted practising certificate, you must:

- Maintain your professional indemnity insurance (s 39); and
- Audit your trust accounts annually and / or as required.

Breach of a condition can be a professional conduct or criminal matter.