



NEW SOUTH WALES  
BAR ASSOCIATION®

## FEE WAIVER POLICY

### Background

The Treasurer has the discretion to waive/reduce practice certificate fees in cases of parental leave. In practice, this power is exercised by the Executive Director.

The Executive Director advises that the policy has to date been applied as follows:

On application the Treasurer waives 100% of the practising certificate fee in respect of the year in which parental leave is taken with the first child; 50% for the second child; and 25% for the third child. It does not matter how much leave the parent wishes to take, if any.

It would be appropriate for the Bar Council to develop a policy to guide the exercise of the discretion that extends practice certificate waivers to carers generally. This will provide clear information that will assist to attract and retain barristers, particularly those who are considering taking periods of leave to act as a carer, whether as a parent or otherwise.

### Proposed Policy

Other than where special circumstances justify a different course, the Treasurer will apply the discretion that is vested in the Treasurer to waive practice certificate fees for barristers taking leave as a carer in accordance with the following guidelines:

#### Parental Leave

- 1) On application, a barrister who is or is intending to take leave, for whatever period of time, from practice in connection with the birth or adoption of a child or children (parental leave) shall be given a practising certificate fee waiver equal to 100% of the annual practising certificate fee.
- 2) Such application may be made prior to going on leave or during such leave, and will apply to the next practising certificate fee to be paid by the barrister following the date of application.
- 3) There is no limit to the number of practising certificate years for which an application may be made and granted for a parental leave fee waiver.
- 4) For the purposes of rules 1 to 3, a barrister is taken to be:
  - a) on 'parental' leave if she or he is taking such leave in connection with the birth or adoption of her or his child;

- b) the barrister will be the primary care giver for the child during a period of leave of at least two months, even if some work is done during that period.

#### **Other Carer's Leave**

- 5) On application a barrister will be given a practising certificate fee waiver calculated pro rata equal to the number of months that the barrister intends to take leave to be a carer (carer's leave).
- 6) An application must be made with the next application for renewal of any practising certificate following commencement of the leave. Further:
  - (a) If the leave has commenced but not completed at the date of such application, the application shall be made in respect of the period from the commencement of leave to 30 June of the relevant year and applied pro rata to the following year's practising certificate fee.
  - (b) Any such application may include a claim for leave estimated to be taken in the following practising certificate year. In that case:
    - (i) if the barrister returns from leave earlier than estimated, he or she shall inform the Treasurer and refund the amount of overpayment; and
    - (ii) if the barrister returns from leave later than estimated, he or she may claim the further time in the next practising certificate renewal application.
- 7) For the purposes of rules 5 and 6, a barrister is taken to be:
  - on 'carer's leave' if the barrister is taking leave in order to be a primary care giver for another person for a period that is not less than 2 months, even if some work is done during that period.
- 8) There is no limit to the number of practising certificate years for which an application may be made and granted for a carer's leave fee waiver.

#### **Renewals and Applications**

- 9) Notice of this policy shall be distributed in writing with each set of practising certificate renewal forms.
- 10) All applications shall be in writing and signed by the barrister, and shall accompany any practising certificate renewal application.
- 11) Each such applicant shall:
  - (a) set out such circumstances and provide such supporting documentation as the Treasurer or Executive Director may reasonably require; and
  - (b) certify his or her belief in the truth of any fact asserted or document provided.

#### **Treasurer's Decision and Data**

- 12) The decision of the Treasurer in determining any fee waiver shall be in his or her absolute discretion.
- 13) The Treasurer shall cause to be recorded the number and type of applications for waivers under this policy, the number granted, the financial effect of such waivers, and shall report thereon to Bar Council.