



NEW SOUTH WALES
BAR ASSOCIATION®

Principal Place of Practice for Barristers

A barrister applying for a practising certificate in New South Wales must, as a prerequisite for making that application, hold a reasonable intention that New South Wales will be their principal place of practice during the currency of the certificate or renewal applied for.¹

If a barrister reasonably intends that New South Wales will be their principal place of practice, they must notify the Council of the Bar Association² of that intention³:

- a. on application for the grant or renewal of their practising certificate in New South Wales; and
- b. within 14 days after his or her principal place of practice changes, if that change coincides with the move to New South Wales from another jurisdiction of the permanent office in or through which the barrister engages in legal practice.

The applicant for the grant or renewal of a practising certificate issued by the Bar Association under the Uniform Law bears the onus in satisfying themselves that they reasonably intend that New South Wales will be their principal place of practice during the currency of their practising certificate before making the application.

The Council of the Bar Association may reject the notification if it considers that it is reasonably likely that another jurisdiction will be the barrister's principal place of practice.⁴

Determination of a barrister's principal place of practice

"Principal place of practice" is not defined by the Uniform Law.

The Uniform Law and the corresponding laws⁵ of other States and Territories demonstrate there can only be one principal place of practice, and so barristers need to elect and apply for a practising certificate in the relevant jurisdiction.

¹ Section 44(4) of the Uniform Law. See also s. 36 of the Application Act.

² As the designated local regulatory authority – see s. 11 of the Application Act.

³ Section 46(1) of the Uniform Law.

⁴ Section 46(2) of the Uniform Law.

⁵ See the definitions of "corresponding law" in s. 6(1) of the Uniform Law and re. 4 of *the Legal Profession Uniform Regulations 2015*.

The Bar Association can provide ethical guidance to barristers if they have a query as to where their principal place of practice lies.

A common-sense approach is taken, and some primary things to consider are:

- a. whether the barrister is briefed to advise and/or appear in relation to proceedings solely or principally in New South Wales (including proceedings filed in the New South Wales registries of the Federal Court of Australia, the Federal Circuit Court of Australia, or the Family Court of Australia); and
- b. if the barrister is briefed in relation to interstate proceedings – the extent to which the barrister’s interstate practice is of a temporary or case by case nature

Other things to consider include:

- a. the proportion of time spent working as a barrister in New South Wales as compared with another jurisdiction;
- b. the intention to maintain physical chambers in New South Wales;
- c. the intention to maintain principal place of residence in New South Wales

Although rare, it is possible for a principal place to change from year to year.

Conclusion

As stated above, the Bar Council can reject a barrister’s claim of their principal place of practice, if they are provided with overwhelming information to suggest another jurisdiction will be the barrister’s principal place of practice.

For this reason, it may be prudent for barristers with extensive interstate practices, or those briefed in lengthy proceedings interstate which may be the barrister’s sole source of work to document their reasons for concluding that they nonetheless reasonably intended that New South Wales would remain their principal place of practice.

Ultimately, the barrister bears the onus in satisfying themselves that they reasonably intend that New South Wales will be their principal place of practice during the currency of their practising certificate.

Further Questions

If you have any questions, in the first instance please contact the Professional Conduct Department (PCD) of the NSW Bar Association on (02) 9232 4055 or by email at pcd@nswbar.asn.au.

If the barrister requests, or PCD staff consider it appropriate, the barrister will be referred to Senior Counsel on the Professional Conduct Committees for ethical guidance.

Last updated: 1 June 2021