



Accredited Specialisation Application Guidelines 2019

Personal Injury Law



What is an Accredited Specialist?

A lawyer who is accredited as a specialist is recognised as having an enhanced skill level, as well as substantial involvement in established legal specialty areas. The Law Institute of Victoria requires such specialists to demonstrate superior knowledge, experience and proficiency in a particular area of law to ensure that recognition as an accredited specialist is meaningful and reliable.

Eligibility for Accreditation

- Membership of the Law Institute of Victoria
- A current practising certificate
- At least five years experience in practice
- Substantial involvement in Personal Injury Law over the past three years
- Three references in support of the application
- Successful completion of the prescribed assessment program

Candidates who do not meet the eligibility criteria may apply for an exemption from criteria in accordance with the Specialisation Scheme Rules. Such applications for exemption must be lodged no later than **4.00pm Friday 22 March 2019**.

IMPORTANT: Details of the conditions for gaining specialist accreditation are contained in the Specialisation Scheme Rules which can be found at:

http://www.liv.asn.au/LIVPublicWebSite/media/150th-Anniversary-2009/LIV%20Documents/20160420_Master_SpecialisationSchemeRules_April16.pdf

Specialisation Candidates are particularly advised to read the *Specialisation Scheme Rules* and familiarise themselves with the requirements for any applications for exemption or special consideration. The Rules are located under the Scheme Administration tab of the *Specialisation Scheme* link.

Assessment

The assessment program for Accredited Specialisation in Personal Injury Law is in three parts. To gain accreditation candidates must obtain a satisfactory mark in each section of each of the three parts of the program. Candidates may, in any or all of the assessment program, be assessed on any or all of the **Assessment Topics and Legislation** listed in **Schedules 4 and 5**.

Part 1: Written Examination – See **Schedule 1**.

Part 2: Simulated Client Interview – See **Schedule 2**.

Part 3: Case Presentation – See **Schedule 3**

Further details of the assessment programme and procedures are contained in the Schedules attached to these Guidelines.

Candidates will be examined on the law as it stands at the date of assessment.

Supplementary assessment

Candidates may be required to undertake additional assessment at the discretion of the Specialisation Board.

Exemption from Written Component

Candidates may apply in advance for an exemption from the written examination if they have recently studied subjects relating to Personal Injury Law in a postgraduate course at a tertiary institution. Any such exemption is entirely at the discretion of the Specialisation Board and will be assessed on a case by case basis.

Eligibility for the exemption is subject to the following conditions. The completed post graduate course units **must**:

- have been completed within the preceding five years of the date of application
- assess knowledge that is equivalent in range to the knowledge assessed in the specialist accreditation exam
- be at a level of complexity and standard of knowledge that is equivalent to that assessed in the specialist accreditation exam
- contain knowledge that is of equivalent relevance to practice in the specialist accreditation exam

Any application for an exemption should be made at the time of lodging the application form, which is to be lodged no later than **4.00pm Friday, 22 March 2019**.

Timetable

Thursday 25 October 2018	Prospective specialist networking night, 5:30pm-7pm
Monday 25 February 2019	Accredited Specialisation Annual Information night, 5:30pm-7pm
Friday 22 March 2019	Applications requesting Board discretion (for those who do not meet eligibility criteria) or exemption from the Written Examination close, no later than 4pm
Friday 5 April 2019	All other Applications close, no later than 4pm
Saturday 27 July 2019	Part 1: Written Examination, 9.30am – 1.00pm
Wednesday 31 July 2019	Part 2: Simulated Client Interview, by appointment
Thursday 1 August 2019	Part 3: Case Presentation, by appointment
Late October 2019	Results sent to candidates will be posted
Late November 2019	Accredited Specialisation Conferral and Cocktail reception

IMPORTANT: Candidates who wish to apply for special consideration in relation to their assessment tasks must do so in accordance with the Rules [http://www.liv.asn.au/LIV PublicWeb Site/media/150th-Anniversary-2009/LIV%20Documents/20160420_Master_SpecialisationScheme_Rules_April16.pdf](http://www.liv.asn.au/LIV_PublicWeb_Site/media/150th-Anniversary-2009/LIV%20Documents/20160420_Master_SpecialisationScheme_Rules_April16.pdf)

Unacceptable Conduct

Candidates must not:

- Disclose or discuss the contents of the Accredited Specialisation Assessment material with any other person except those working in the Accredited Specialisation Department of the Law Institute of Victoria, until all assessment tasks have been completed by all candidates.
- Contact committee members for specific advice regarding exam questions or exam outcomes.
- Engage in any other conduct which may negatively affect the fair and proper administration of the Accredited Specialisation program.

Candidates engaging in the above conduct or any other conduct deemed to be unacceptable may be excluded or disqualified from the program.

Performance Standards

Practitioners wishing to be accredited must be able to:

- (a) perform at a superior standard which is expected of practitioners wishing to hold themselves out as specialists in the area,
- (b) display a superior standard of knowledge of the law and procedure which underpins the performance of tasks in this area of practice.

General Recommendations

Candidates may find it of assistance in preparing for the assessment tasks to:

- (a) Form a study group – to register your interest in forming a study group please contact special@liv.asn.au
- (b) Attend appropriate LIV CPD events in the area of specialisation
- (c) Review previous examination papers and videos of simulated interviews. These are available at http://www.liv.asn.au/PDF/Education-Events/Accredited-Specialisation/2013AS_AssessmentMaterials
- (d) Read some or all of the Suggested Reading Material listed in **Schedule 4**

Legislation and Other Provisions

Candidates should be familiar with the relevant parts of legislation relating to the selected topics for assessment, and the legislation listed in **Schedule 4 and 5**.

Applications

Applications must be made on the prescribed application form.

Resume of Practice

As evidence of substantial involvement, applicants must submit a resume of their professional activities relevant to practice in Personal Injury Law. The resume should give the Board an overall picture of the applicant's experience and expertise in Personal Injury Law, with an emphasis on involvement over the past three (3) years. It is not expected that a comprehensive *curriculum vitae* will be submitted.

No standard format is prescribed. However, applicants might find it helpful to use some or all of the following headings:

- broad description of current practice activities
- experience in specific areas of activity in Personal Injury Law
- involvement with relevant professional organisations
- relevant publications and presentations
- academic qualifications
- other.

It is not necessary to repeat details provided on the application form.

Please forward to the Law Institute of Victoria:

1. The completed application form
2. Three references
3. Resume of practice
4. Application fee of \$1,100.00 (including GST) payable to the Law Institute of Victoria.

Applications Close

By 4.00pm Friday 22 March 2019: for applicants wishing to apply for Board discretion because they do not meet the eligibility criteria or for applicants wishing to apply for exemption from the Written Examination.

By 4.00pm Friday 5 April 2019: for all other applications.

The address for applications is:

*Accredited Specialisation
Law Institute of Victoria*

GPO Box 263 OR DX 350
MELBOURNE 3001 MELBOURNE

Enquiries: Telephone: 9607 9461
 Facsimile: 9607 9404
 Email: special@liv.asn.au

SCHEDULE 1:

Examination Assessment Component Part 1 – Written Examination

Exam Date: Saturday 27 July 2019, 9.30am to 1.00pm

Exam Venue: (TBC)

Assessment Overview

The examination is divided into three sections. Each section is worth 60 marks and candidates should spend approximately one hour answering each section within the examination.

Sections A & B – General Topics

Sections A & B will test general knowledge across all areas of personal injury law, procedure and practice.

Section A will contain 6 short answer questions (all of which are mandatory), each question will carry 10 marks. (60 marks total, allow approximately 1 hour)

Section B will contain 4 intermediate questions (all of which are mandatory), each question will carry 15 marks. (60 marks total, allow approximately 1 hour)

Section C – Practice Areas

Candidates will be asked to provide advice on **one** of the following topics:

- Transport Accident Compensation
- Workers Compensation
- Medical Negligence
- Public/Product Liability

Section C requires a detailed answer which identifies the key issues and specifies the advice appropriate to the situation. **Please note:** In section C, candidates answering a question in a particular area will be expected to have a working knowledge of other areas if applicable. (60 marks total, allow approximately 1 hour)

IMPORTANT: In order to pass the examination, candidates will need to achieve at least a 50% score in each of the sections (A, B and C) of the written examination.

Please note the following:

- Where appropriate, candidates are expected to provide advice pertaining to damages.
- As candidates are able to select the Specialist topic on which they are assessed, the answer given should demonstrate particular expertise and advanced knowledge in the topic

selected. Candidates will be asked to evaluate a fact situation, identify the key issues to be addressed, and prepare appropriate advice.

- The answer should include clear descriptions of any assumptions made and of any additional enquiries which it is considered should be undertaken.

Assessment criteria

Candidates will be assessed on their:

- ability to identify relevant issues from a given fact situation
- knowledge of relevant law (including significant recent decisions) and skill in applying that knowledge in practice
- knowledge of the procedural rules
- ability to provide practical, clear and comprehensive advice
- awareness of practical considerations in dispute resolution

Examination conditions

Typed exams

Candidates in this area of Specialisation have the option to elect whether they would like to submit a hand written or typed written examination. All candidates who elect to type their examination will use a computer supplied by the Law Institute, and will only have access to a word processor on this computer.

General conditions

- The written examination is an **open book exam**.
- Candidates may take into the examination room any books, notes or other written material.
- Portable computers may be used for reference purposes on a read-only basis so long as their use does not disturb other candidates. Access to the internet is strictly prohibited.
- Mobile telephones are not permitted.
- Questions must be answered in the script book provided for candidates electing to submit a handwritten examination.
- Handwriting must be legible for candidates electing to submit a handwritten examination.
- Each candidate will be issued with an examination number.
- The names of candidates must not appear on any material submitted for assessment.
- Answers should be clear, comprehensive and written in good quality prose.

After the examination

Immediately following the conclusion of the written examination, candidates will be able to download materials pertaining to the Simulated Interview in Part 2 of the assessment program through www.accreditedspecialisation.liv.asn.au

SCHEDULE 2:

Examination Assessment Component Part 2 – Simulated Interview

Interview Date: Wednesday 31 July 2019

Interview Time: By appointment

Interview Venue: Law Institute of Victoria, Level 2, 470 Bourke Street Melbourne

Assessment Overview

Candidates will be asked to conduct a simulated interview with a person acting in the role of a client.

The interview will be a first interview, and will be recorded for assessment by examiners. At the conclusion of the interview, candidates will be given approximately 10 minutes to prepare a brief file note covering the interview and steps to be taken following the interview. This file note must be submitted to examiners at the completion of Part 2: Simulated Interview and will be considered by the examiners in conjunction with the recorded interview.

The fact situation provided in the simulated interview will form part of the facts provided in Part 3: Case Presentation.

Consultation with any other person in completing this exercise is not permitted. Candidates will be required to sign a statement to the effect that they have not consulted with any other person in completing this exercise.

Assessment criteria

This component tests a range of skills including:

- ability to elicit relevant information and facts from the client
- identification of relevant issues and the giving of appropriate advice
- ability to appropriately communicate with the client
- planning the actions to be taken following the interview

A sound knowledge of the relevant law, rules and procedures will also be required.

SCHEDULE 3:

Examination Assessment Component Part 3 – Case Presentation

Presentation Date: Thursday 1 August 2019

Presentation Time: By appointment

Venue: Law Institute of Victoria, Level 2, 470 Bourke Street Melbourne

Assessment Overview

This part of the examination requires candidates to present, discuss and answer questions for a panel of examiners of a Personal Injury case, similar to the presentation required for a mediation or informal conference.

This process will be in two stages. Candidates will be given 90 minutes prior to their presentation to study a brief (which will be partly based on the facts provided in the Simulated Interview). The brief will be made up of documents of both parties. It may include statements by the parties, medical reports, affidavit material, a list of special damages, a statement of claim, a notice of defence etc.

Candidates will then be required to present and argue their case, setting out issues pertaining to liability and quantum, including assessment of damages.

Panel members will question the candidate on their thoughts about the case, its strengths and weaknesses and what advice they would give their client.

The questions may relate to the following:

- arguments or propositions that might be put by the other party
- drawing out legal principles on liability and quantum
- raising issues in relation to particular defences
- issues relating to damages such as discount values, interest or repayments
- assessment of damages
- managing the client's expectations
- causation
- recommendations/advice to client as to cause of action or settlement sum
- identification of strength and weaknesses in evidentiary material provided.

The above list is not exhaustive and it is expected that Panel members may follow a line of inquiry with a particular candidate depending on the responses provided.

The panel will consist of two members of the Personal Injury Law Specialist Accreditation Advisory Committee. Depending on the number of candidates, there may be more than one panel. Presentations will be recorded.

Consultation with any other person in completing this exercise is not permitted. Candidates will be required to sign a statement to the effect that they have not consulted with any other person in completing this exercise.

Assessment criteria

This component tests the following skills:

- identification of relevant issues from the given fact situation
- ability to articulate a case persuasively
- assessment of liability and damages
- ability to make a practical recommendation to a client to enable an informed decision
- knowledge of relevant law and skill in applying that knowledge in practice

SCHEDULE 4:

Topics for Assessment

Applicants will be expected to display a working knowledge of all the practice areas as well as to recognise typical problems, construct an advice to a client and to outline the steps which would be taken to prepare the matter for hearing. In addition, the applicant will be expected to demonstrate an in-depth knowledge of one of the practice areas and be able to address more complex issues specific to that field and cover the matters set out in these guidelines.

Practice Areas

- Medical negligence
- Public/Product Liability
- Transport Accident Compensation
- Workers Compensation

General Topics

- Costs
- Choice of Law
- Damages
- Defences
- Negligence
- Civil Procedure
- Strict and Statutory Liability
- Time Limitations
- Dust Diseases
- Commonwealth Compensation

NB: Any matter relevant to practice in **Personal Injury Law** may be examined, including the areas listed above. The following list gives an indication of other matters which candidates might be asked to address. Candidates may be asked questions arising under any legislation, related regulations and other materials listed in these guidelines. This is not intended to be an exhaustive list.

SCHEDULE 5:

Related Legislation and Other Materials

Relevant legislation includes but is not limited to:

- *Accident Compensation Act 1985* (Vic)
 - *Protocols and Ministerial Directions*
- *Acts Interpretation Act 1901* (Cth)
- AMA Guides to the Evaluation of Permanent Impairment 1984 (2nd edition), 1993 (4th edition) & 2000 (5th edition)
- *Australian Competition and Consumer Act 2010*
- Comcare Guide – 1st and 2nd editions
- *County Court Act 1958* and Rules (Vic)
- *Civil Procedure Act 2010* (Vic)
- *Evidence Act 2008* (Vic)
- *Evidence Act 1995* (Cth)
- *Federal Court of Australia Act 1976* and Rules (Cth)
- *Health and Other Services (Compensation) Act 1995* (Cth)
- *Health Services Act 1988* (Vic)
- *Health Records Act 2001* (Vic)
- *Interpretation of Legislation Act 1984* (Vic)
- *Jurisdiction of Courts (Cross-Vesting) Act 1987* (Cth) & (Vic)
- *Legal Profession Uniform Law Application Act 2014* (Vic)
- *Limitation of Actions Act 1958* (Vic)
- *Magistrates' Court Act 1989* and Rules (Vic)
- *Military Rehabilitation and Compensation Act 2004* (Cth)
- *Occupational Health and Safety Act 2004* (Vic)
- *Occupational Health and Safety Regulations 2007* (Vic)
- *Road Management Act 2004* (Vic)
- *Road Safety Act 1986* (Vic)
- *Safety Rehabilitation and Compensation Act 1988* (Cth)
- *Seafarers Rehabilitation and Compensation Act 1992* (Cth)
- *Sentencing Act 1991* (Vic)
- *Social Security Act 1991* (Cth)
- *Supreme Court Act 1986* and Rules (Vic)
- *Transport Accident Act 1986* (Vic)
 - *Protocols*
- *Transport Integration Act 2010* (Vic)
- *Victims of Crime Assistance Act 1996* (Vic)
- *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic)
- *Wrongs Act 1958* (Vic)

With respect to each of the Court Acts, candidates should also refer to Actuarial tables, Practice Directions, Practice Notes and Practice Rules.

This list indicates the range of matters which could be addressed in the assessment program. This is not necessarily an exhaustive list. Candidates will be examined on the law as it stands at the date of assessment.