



Guidance for
regulatory orders

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SECTION 1: INTRODUCTION

- 1.1 This section of the Guidance for Regulatory Orders (“Guidance”) concerns applications for waivers of ACCA regulations.
- 1.2 The Guidance has been developed by ACCA’s Regulatory Board, which oversees the regulatory and disciplinary committees and reports to ACCA’s Council on the fairness and impartiality of the arrangements in place. The purpose of the Guidance is to assist the Admissions and Licensing and Appeal Committees (“the Committee”) in the exercise of their powers. It is designed to manage regulatory risk, provide transparency of policies and procedures and ensure consistency of approach.
- 1.3 The Guidance is for use by:
 - ACCA staff when they are considering the appropriate action to take, for example based on the information provided in the waiver application form
 - the Committee when they are considering what order or decision to make
 - ACCA certificate or licence holders so that they are aware, prior to any decision being made, of what the Committee’s range of options are and which matters the Committee members may take into account when coming to a decision.
- 1.4 The Guidance is a ‘living document’ which will be updated and revised when the need arises.

SECTION 2: THE ROLE AND REGULATORY POWERS OF THE COMMITTEE

2.1 Introduction

- 2.1.1 The Committee is totally independent of ACCA and is free to exercise its own judgement in making decisions:
- according to the established facts and supporting evidence provided
 - with regard at all times to the regulatory framework set out in ACCA's Rulebook, policy statements issued by the Regulatory Board and any other relevant guidance
 - taking account of the regulatory risk posed by the certificate or licence holder's history
 - in accordance with the standard of proof, which on ACCA regulatory matters is on the balance of probabilities
 - balancing the need to maintain public confidence in the profession with appropriate proportionality.

2.2 The role of the Committee

- 2.2.1 The Admissions and Licensing Committee is responsible for considering applications for a certificate or licences issued by ACCA. Provided an application meets the criteria specified from time to time by the Committee, the power to grant the application is usually delegated to ACCA staff.

2.3 Purpose of an order

- 2.3.1 It is a settled principle of law that the purpose of orders issued by a professional regulatory body is to:
- protect the public
 - maintain public confidence in the profession
 - maintain proper standards of conduct.
- 2.3.2 It is vitally important that the holder of a certificate or licence issued by ACCA meets the high standards expected by the public. The function of the Committee is to take appropriate action to ensure that the holder is competent to undertake the work and will maintain proper standards of conduct in future, thereby maintaining public confidence in the profession. Their function is not to discipline the firm or individual for any past wrongdoing of which they may be culpable.
- 2.3.3 It was noted in *Bolton v The Law Society* [1994] 2 ALL ER 486 that the reputation of a profession as a whole is more important than the fortunes of an individual member of that profession.

2.4 Regulatory powers

- 2.4.1 The Admissions and Licensing Committee has powers to grant waivers of the requirements of certain ACCA regulations. It is specified within the body of the regulation whether the Committee has waiver powers over that regulation. ACCA staff have delegated authority to grant some waivers on an administrative basis but applications that do not meet the agreed criteria and problematic applications are referred to the Committee for consideration. In accordance with Authorisation Regulation 3(10) the Committee may grant or refuse the application, and where it grants the application may impose any conditions it believes appropriate. The Committee may also accept undertakings from any person as a condition of issuing a certificate.
- 2.4.2 The Committee may impose whatever conditions it believes are appropriate on a member's practising certificate and/or any other certificate or licence issued to a member or firm which authorises them to undertake a regulated activity. Any conditions must be:
- enforceable;
 - addressed to the certificate holder and not third parties (including ACCA);

- relevant, in that they address a specific circumstance or risk factor;
- necessary (see proportionality below);
- workable, in that they are capable of practical application by the applicant and are consistent with other elements of the decision; and
- written in such a way that compliance can be easily verified.

2.5 Proportionality

2.5.1 In deciding on the appropriate order and conditions to impose, the Committee must weigh the need to fulfil the purpose of a regulatory order set out in paragraph 2.3.1 (i.e. to safeguard the public interest) against the interests of the certificate holder.

2.5.2 Any order and/or conditions imposed should, taking into account all the circumstances of the case, be proportionate to the future licensing risk of the firm or individual failing to:

- carry out work in accordance with the applicable requirements
- meet the eligibility requirements for a certificate or licence

2.5.3 In order to ensure that the order (including any conditions imposed) is the minimum necessary to achieve the purpose, the Committee will need to consider:

- the member's and firm's evidence in support of the request for a waiver of a regulation having regard to the fact that it is for the applicant to convince the Committee
- the possible risks to the public of granting the waiver and the conditions which the Committee could put in place for the future to reduce these risks.

2.6 Publicity

2.6.1 Publicity of the decision is not currently required and it is not usually the practice for applications for waivers, whether or not they are granted.

SECTION 3: THE BASIC APPROACH FOR CONSIDERING APPLICATIONS FOR WAIVERS AND GUIDANCE FOR THE COMMITTEE

3.1 Introduction

3.1.1 In all cases, it is for the applicant to satisfy the Committee that they are eligible for a waiver. For most types of waiver the applicant must demonstrate that exceptional circumstances exist and these will be particular to each application. It is not appropriate to provide a list of exceptional circumstances and the Committee always considers each case on its own merits. However, set out below are the broad principles and relevant factors that the Committee considers in making its decisions on applications for waivers of particular regulations.

3.2 Qualifications for a practising certificate (GPR 7)

3.2.1 The requirement for members to obtain post-membership experience in order to apply for a practising certificate is linked to established practice across the accountancy profession. Therefore, the onus is on the applicant to demonstrate that they meet by some equivalent means the requirements of the regulation, particularly the need for experience at a more senior level after obtaining membership, AND that some exceptional circumstance exists to warrant granting the waiver of the requirements which all other members have to meet. The fact that an applicant does not want to wait until they meet the eligibility requirements in order to go into public practice immediately is not in itself an exceptional circumstance.

3.2.2 The Committee needs first to be satisfied that some exceptional circumstance exists. For example, an unexpected event has occurred which was outside of the member's control, such as redundancy or the death, incapacity or unexpected retirement of the member's employer, which means that the member is not able to complete the experience requirement, as they planned. The unexpected offer of a partnership/directorship which will be lost if not accepted immediately may also be regarded as an exceptional circumstance.

3.2.3 If the Committee is satisfied that there are exceptional circumstances it then considers whether the member has sufficient experience at a senior level taking into account any references from employers and clients provided in support of the application. The Committee also consider the member's CPD and, if they intend to practise on their own, the arrangements they have made for technical and ethical advice and support.

3.3 Professional indemnity insurance (GPR 9)

3.3.1 Professional indemnity insurance (PII) ensures that clients will receive any compensation due to them. It also provides an effective means of protecting firms against the consequences of negligence and other claims made by clients. Therefore, waivers are granted only in exceptional circumstances and pose a risk to clients and the onus is on the applicant to demonstrate that not to grant the waiver would cause undue hardship.

3.3.2 Applications may be of a waiver of any of the following:

- The requirement to hold cover of 25 times the firm's largest fee from the previous year
- The requirement for cover to be on an each and every claim basis
- The requirement to hold run-off cover for six years following cessation of practice
- The requirement for PII to cover all civil liability incurred in connection with the conduct of the firm's business
- The requirement for the amount of any uninsured excess to be restricted to 2 per cent of the limit of indemnity in respect of each and every claim or £20,000 per principal in respect of each and every claim, whichever amount is the lesser.

25 times largest fee

- 3.3.3 Firms sometimes receive large, one-off fees which result in an increase in their level of cover and therefore the premium. The Committee has previously indicated that cost alone is not a sufficient reason for granting a waiver. Nevertheless, the Committee takes account of the increase in the premium as well as the level of risk attached to the work for which the fee was charged, the likely amount of a claim, and whether the fee is a one-off and will not recur in the future.

Each and every claim

- 3.3.4 Firms can sometimes only obtain cover on an aggregate basis rather than an each and every claims basis. The Committee considers the reasons why the firm cannot obtain cover on the required basis and, in particular, whether the firm has provided documentary evidence from the insurers confirming that cover on an each and every claim basis is not available.

Run-off cover

- 3.3.5 Members are required to ensure that PII cover remains in place for six years after they cease to practise. The Committee considers the level of risk attached to the member's work prior to ceasing in practice and the member's financial circumstances. For instance, some members continue to practice at a low level, following retirement from full time practice, with a handful of long standing personal clients. The Committee considers the risk of and likely amount of claims based on the information provided about and from the clients.

All civil liability incurred in connection with the conduct of the firm's business

- 3.3.6 Members are required to ensure that their PII cover includes all civil liability incurred in connection with the conduct of the firm's business. If a firm is unable to obtain cover for certain types of work, such as claims arising out of tax mitigation schemes or the work undertaken by a particular person in the firm, the Committee considers the reasons why the firm cannot obtain cover on the required basis and, in particular, whether the firm has provided documentary evidence from the insurers or the broker confirming that cover is not available and that they have tried to obtain cover from other insurers.

The amount of any uninsured excess

- 3.3.7 Under ACCA's regulations the uninsured excess (i.e. the amount of any claim which is borne by the firm before there is any payment by the insurer) must be restricted to 2 per cent of the limit of indemnity in respect of each and every claim or £20,000 per principal in respect of each and every claim, whichever amount is the lesser. Sometimes the amount of uninsured excess in a firm's PII policy does not comply with ACCA's regulations. For example, the amount of the excess may not comply with ACCA's regulations and it may be on an aggregate basis rather than each and every claim. The Committee considers the reasons why the firm cannot obtain cover on the required basis and, in particular, whether the firm has provided documentary evidence from the insurers or the broker confirming that cover on an each and every claim basis is not available.

3.4 Continuing professional development (GPR 10)

- 3.4.1 Members are required to achieve 40 units of continuing professional development (CPD) per year, at least 21 of which must be verifiable. The CPD scheme is very flexible as members can achieve verifiable CPD in a number of different ways, such as structured courses and e-learning. Members may also make up any shortfall during the following year.
- 3.4.2 Due to the flexibility of the CPD scheme it is not expected that there will be many waiver applications. Nevertheless the Committee may adapt the regulation to meet any individual's requirements, if it believes appropriate. Waivers can be granted in respect of one calendar year only.
- 3.4.3 Waivers of the non-verifiable CPD requirement can be granted only in exceptional circumstances.

- 3.4.4 In all cases the Committee considers the member's compliance with the CPD requirements in previous years, how the member intends to comply in future years, whether the member has undertaken any non-verifiable CPD to compensate for any shortfall in verifiable CPD and whether it would be possible and appropriate for the member to make up some or all of the shortfall in future years. In addition, for members applying for a waiver on the grounds of ill health, the Committee considers whether the member has provided a medical report explaining the medical issues that prevented the member achieving the required amount of CPD, while they were able to continue to work.
- 3.4.5 In addition, if the application is for a waiver of any of the non-verifiable CPD requirement the Committee considers whether the applicant has established that there are exceptional circumstances.

3.5 Continuity of practice (GPR 11)

- 3.5.1 Practitioners in the UK, Ireland, Channel Islands, Isle of Man and Zimbabwe are required to make arrangements for the continuity of their practice in the event of their death or incapacity. Practitioners outside of these territories can apply for a waiver of this requirement. At its meeting on 22 August 2006 the Committee agreed that waivers could be granted administratively by staff to members outside of the UK, Ireland, Channel Islands, Isle of Man and Zimbabwe provided that a practising certificate is held from the member's recognised national accountancy body or regulatory authority and that continuity is not a requirement of that body or authority. Where a firm does not meet the requirements for an administrative waiver, the Committee considers whether the applicant has established that exceptional circumstances exist to justify the granting of a waiver.

3.6 Qualifications required to obtain a UK or Irish audit qualification (Regulations 6(5)(A) and 6(5)(F) of Appendix 1 of Annex 1 (UK) and Regulation 6(5)(A) and 6(5)(E) of Appendix 1 of Annex 2 (Ireland)

- 3.6.1 There are two requirements relating to the audit qualification that the Committee may consider waiving in exceptional circumstances:
- i at least two years of continuous ACCA membership**
- 3.6.2 Applicants for a UK and/or Irish practising certificate and audit qualification are required to have completed two years of continuous ACCA membership before they can apply for a practising certificate and audit qualification. If an applicant has not been a member of ACCA for at least two years continuously but meets the other eligibility criteria for the audit qualification the Committee may consider granting a waiver.
- ii practical training in an ACCA approved employer – practising certificate development (audit)**
- 3.6.3 Applicants are required to obtain three years of supervised experience in an ACCA approved employer that is registered under the practising certificate development (audit) stream, two years of which must be post-membership. If an applicant has been gaining experience in a firm that is not registered under ACCA's practising certificate development (audit) stream in the belief that their experience would count the Committee can consider granting a waiver if the firm would have been eligible to register as an ACCA approved employer under the practising certificate development (audit) stream during the member's practical training period (for example, if the firm was approved by another professional body that is recognised to provide audit training towards the award of a UK and/or Irish audit qualification, such as ICAEW, ICAS or CAI). This is intended to not disadvantage a member who believed they were getting the relevant experience but who subsequently found out that their employer was not appropriately approved.

3.7 Qualification requirements for an audit qualification for Jersey, Guernsey and Dependencies and the Isle of Man (Appendix 3 of Annex 1)

- 3.7.1 Under The Companies (Jersey) Law 1991, The Companies (Guernsey) Law 2008, the Companies (Alderney) Law 1994 and the Isle of Man Acts 1931-2004 members of ACCA are recognised as qualified for appointment as auditor of a company in these territories. There is no additional requirement under these laws for individuals to hold practising certificates from their professional body. However, ACCA's regulations stipulate that any member wishing to undertake audit work in any of the designated territories (UK, Ireland, Channel Islands, and Isle of Man) or in Zimbabwe must hold a practising certificate and audit qualification valid for the relevant territory. Therefore, to comply with ACCA's regulations members in these territories are required to hold a practising certificate and audit qualification. They may not, however, meet the experience requirement.
- 3.7.2 Waivers can be granted of the requirement that the member's employer was not registered as an ACCA approved employer under the practising certificate development stream during their practical training period and the requirement that at least 22 weeks of UK statutory audit experience must be achieved during the three years of practical training. In considering the request for the waiver of the experience requirement, the Committee determines whether the member has obtained sufficient experience at a senior managerial level in an ACCA approved employer or an employer eligible to register as an ACCA approved employer, and whether this is supported by references from other qualified auditors.

SECTION 4: DESCRIPTION OF THE AVAILABLE ORDERS AND APPLICATION GUIDELINES

4.1 Introduction

- 4.1.1 In this section, reference to an application includes an application for a waiver of any of the regulations above on the terms allowed in the relevant regulation. Please note that the orders available to the Committee for applications for waivers of particular regulations may differ, but the principles behind the process are the same. The onus is always on the applicant to convince the Committee of the entitlement to a waiver.
- 4.1.2 Before reaching a decision, the Committee will consider whether the order it has arrived at is appropriate to achieve the purpose of balancing the interests of the applicant and the public, in accordance with the principle of proportionality outlined in Section 2.5 of this publication.
- 4.1.3 The Committee may depart from ACCA's recommendation and the guideline orders and conditions; however, the Committee should have regard to the guidance in this document and ensure that the written reasons for decision clearly explain the exceptional circumstances which resulted in any such departure.

4.2 Available orders

- 4.2.1 The Committee may make any one or more of the following orders:

Order to adjourn consideration of the application

- 4.2.2 It would be appropriate for the Committee to adjourn consideration of the application if questions arise on the day which it would have been difficult for the applicant to have anticipated and the answers to which are vital for the Committee to decide the case. For example, the Committee may have questions which the applicant can answer only by reference to documents which they do not have and will have to obtain. In addition, it may be appropriate for the Committee to consider adjourning a case, although the applicant by their own choice is not present, if the Committee believes that it may be able to grant the application if it has the opportunity of putting certain questions to the applicant to satisfy itself on certain matters.

Order to grant the application subject to a condition(s)

- 4.2.3 It would be appropriate for the Committee to grant an application subject to conditions if the Committee is satisfied that there are exceptional circumstances and that not to grant the waiver would cause undue hardship to the member or firm. However, the Committee may wish to put safeguards in place to protect the public.
- 4.2.4 For example, a waiver of the post-membership experience requirements for a practising certificate may be granted in exceptional circumstances subject to the member passing a test of competence.
- 4.2.5 As well as imposing conditions, the Committee may add a note or reminder to its order. For example, a waiver of the requirement to hold professional indemnity insurance cover of 25 times the firm's largest fee may be granted in exceptional circumstances but the Committee may remind the firm that this does not mean that it will still not be vulnerable to a claim for professional negligence for an amount which may have been covered if the firm had had the cover required by the regulations. A waiver of the audit qualification requirements for the Channel Islands and/or Isle of Man may be granted but the Committee may remind the member that they will need to meet the eligibility requirements in full if they wish to obtain a UK and/or Irish audit qualification in the future.

Refuse the application

- 4.2.6 It would be appropriate for the Committee to refuse an application for a waiver if the Committee is not satisfied that there are exceptional circumstances and that refusing the waiver would not cause the member or firm any undue hardship.

- 4.2.7 For example, a member applying for a waiver of the post-membership experience requirements for a practising certificate may have chosen to:
- delay applying for membership and without the delay would have been eligible for a practising certificate administratively, and/or
 - work for a firm that is not eligible to register as an ACCA approved employer so that their experience would not count towards obtaining a practising certificate, and/or
 - go into practice on their own account in breach of the regulations so that they would not obtain any supervised experience towards obtaining a practising certificate.
- 4.2.8 In the above examples the applicants have failed to take account of ACCA's regulations and by their own choice put themselves in the position of requiring a waiver. In such circumstances it will be more difficult for applicants to show that there are exceptional circumstances to grant them a waiver of the requirements which all other members are required to meet.

Grant the application

- 4.2.9 It would be appropriate for the Committee to grant an application and not impose any conditions if the Committee is satisfied that there are exceptional circumstances and that not to grant the waiver would cause undue hardship to the member or firm.
- 4.2.10 For example, a waiver of the post-membership experience requirements for a practising certificate may be granted in exceptional circumstances if the member was gaining the required experience in an ACCA approved employer but due to circumstances outside of their control they are unable to get their practising certificate experience form signed off.

4.3 Application guidelines

- 4.3.1 The guidelines set out on the pages to follow relate to the most common types of applications that are made to the Committee. The guidelines are not intended to be treated as appropriate for all cases. Each case will be judged on its own facts.
- 4.3.2 In deciding the appropriate order, the Committee must consider all factors relevant to the application. The Committee is free to attach such weight as it thinks fit in its absolute discretion to any factor. The list of factors is not exhaustive.
- 4.3.3 GPR 7(3): Waiver exceptional circumstances of the experience requirement for obtaining a practising certificate

Guideline: refuse the application

- The member chose to go into public practice in breach of ACCA's regulations
- The member chose to work for a firm which was not eligible for ACCA approved employer status
- The member chose to delay applying for membership
- The member has no, or insufficient, senior level experience in public practice
- The member has no, or insufficient, experience in an ACCA approved employer
- The member has provided a Practising Certificate Experience Form which is unsigned by an acceptable supervising principal, meaning that their experience is not corroborated
- The member has made no attempt to get their Practising Certificate Experience Form signed off by their employer and/or has refused to allow ACCA to contact their employer to obtain corroboration of their experience
- The member is unable to provide documentary evidence that a partnership/directorship in a qualified firm of practising accountants has been offered, where they have indicated this is to happen
- The member has not provided adequate, recent references in support of the application
- The member has not provided references from qualified practising accountants

- The member has not provided evidence that they will have access to technical and ethical support from another qualified practising accountant or firm of practising accountants.

Guideline: grant the application

- An unforeseen or unexpected event has occurred which is outside the member's control (for example, the member has been made redundant or the member's employer has died, retired or become incapacitated)
- The member has been offered a partnership/directorship in a qualified firm of practising accountants and this has been confirmed in writing, and, if the waiver is not granted, the member will be deprived of an opportunity that may not come around again
- The member has already obtained at least two years of supervised experience at a senior level in public practice, although not in an ACCA approved employer
- The member has already obtained at least three years of experience overall in an ACCA approved employer but not two years' post-membership
- The member has provided good, recent references in support of the application, including references from qualified practising accountants
- The member has provided written confirmation that he will have access to technical and ethical support from another qualified practising accountant or firm of practising accountants
- The member has provided a Practising Certificate Experience Form showing that they have already achieved the required competences for a practising certificate and this has been signed off by an acceptable supervising principal
- The member has provided a Practising Certificate Experience Form which is unsigned by their supervising principal but they have provided evidence to ACCA that they have tried to get it signed off
- Not to grant the waiver would cause undue hardship to the staff and clients of the firm
- The member has provided recent CPD records showing that they are up to date on current public practice issues
- The member was given incorrect advice by ACCA that a practising certificate was not required and has provided documentary evidence to support this
- There was an administrative error by ACCA
- The member is based in a country where the recognised national accountancy body/regulatory authority does not issue practising certificates or only issues practising certificates to individuals undertaking audit work

Conditions:

If the Committee is minded to grant the application it may wish to impose conditions in order to safeguard the public. The Committee may wish to order the member to undertake a test of competence at the member's own expense. The purpose of this would be to test whether the applicant has the required competence to hold a practising certificate and to offer public practice services without any risk to the public. The test of competence may comprise:

- successfully complete an extended open-book case study, and
- successfully complete a viva.

The Committee may also wish to order that should the member fail to successfully complete the test of competence:

- the waiver is refused, or
- the matter be referred back to the Committee.

If the matter is referred back to the Committee it may then order that the waiver be refused or the member be allowed one further opportunity, at the member's own expense, to:

- successfully complete another extended open-book case study

- successfully complete another viva
- receive a Members Advisory Visit at the member's own expense within six months of being issued with a practising certificate.

4.3.4 GPR 9(7): Waiver in exceptional circumstances of the requirements for professional indemnity insurance

There are five types of PII waiver requests:

- The requirement to hold cover of 25 times the firm's largest fee from the previous year
- The requirement for cover to be on an each and every claim basis
- The requirement to hold run-off cover for six years following cessation of practice
- The requirement for PII to include cover for all civil liability incurred in connection with the conduct of the firm's business
- The amount of uninsured excess.

Guideline: refuse the application

25 times largest fee

- The level of risk attached to the work is high
- The fee is not a one-off or an exceptional fee and may recur in the future
- The cost of cover of 25 times the largest fee is not unreasonable given the amount of the fee received
- There is no evidence that the increase in the cost of cover will cause the member or firm undue hardship.

Each and every claim

- The firm is unable to provide any documentary evidence from the insurer that cover on an each and every claim is unavailable and that cover can only be obtained on an aggregate basis.

Run-off cover

- The level of risk attached to the work is high
- The cost of run-off cover is not unreasonable.

All civil liability incurred in connection with the conduct of the firm's business

- The firm is unable to provide any documentary evidence that it has tried to obtain insurance from other providers
- The firm has not explained how it would meet the cost of any claims that would not be covered by its PII and has not taken any steps to mitigate the risk of a claim being made that would not be covered
- The firm has not provided an assessment of the level of risk involved in the work in question and the likelihood of any claim
- The firm has not provided details about any claims made or notified relating to the work in question

The amount of uninsured excess

- The firm is unable to provide any documentary evidence from the insurer or broker that the required amount of the uninsured excess is not available.
- The firm has not explained how it would meet the cost of any claims that would not be covered by its PII and has not taken any steps to mitigate the risk of a claim being made that would not be covered

Guideline: grant the application**25 times largest fee**

- The level of risk attached to the work is low and not proportionate to the level of fee charged
- The largest fee is a one-off, exceptional, non-recurring fee (i.e. it has not occurred before and is unlikely to recur in future)
- The majority of the largest fee is derived from non-public practice work
- The proportion of the largest fee which is derived from public practice work is low and the level of cover held by the member is sufficient to cover that part of the fee
- The firm's second largest fee is far lower and typical of the level of fee normally received by the firm
- The cost of cover of 25 times the largest fee is unreasonable given the amount of the fee received
- Evidence has been provided that the increase in the cost of cover will cause the member or firm undue hardship
- Cover of 25 times the largest fee is unobtainable and the broker has confirmed this in writing

The Committee may wish to advise the firm that the waiver does not mean that it will not be vulnerable to a claim for professional negligence for an amount which may have been covered if the firm had arranged the cover required by the regulations.

The Committee may also wish to advise the firm that the waiver is granted for one year only and that if a waiver is required in future years the firm must reapply.

Each and every claim

- The firm has provided documentary evidence from the insurer that cover on an each and every claim is not available and that cover can only be obtained on an aggregate basis.

The Committee may wish to advise the firm that the waiver is granted for one year only and that if a waiver is required in future years the firm must reapply.

Run-off cover

- The level of risk attached to the work is low
- The cost of run-off cover is unreasonable
- The member is retired or unemployed and has limited income.

The Committee may wish to advise the member that the waiver does not mean that they are not still vulnerable to a claim for professional negligence being made against them.

All civil liability incurred in connection with the conduct of the firm's business

- The firm has provided documentary evidence from its insurer or broker that cover is only available if it excludes the work in question
- The firm has provided documentary evidence that it has tried to obtain insurance from other providers
- The firm has confirmed that before undertaking any such work in the future it will obtain confirmation from its insurer that its PII cover extends to such work
- The firm has confirmed that they no longer undertake the type of work in question
- The firm has provided an assessment of the level of risk involved in the work in question and the likelihood of any claim
- The firm has provided details about any claims made or notified relating to the work in question
- The firm has explained how it would meet the cost of any claims that would not be covered by its PII and the steps it has taken to mitigate the risk of a claim being made that would not be covered
- Not to grant the waiver would cause undue hardship to the firm and its clients.

The Committee may wish to advise the firm that the waiver does not mean that it will not be vulnerable to a claim for professional negligence for an amount which may have been covered if the firm had arranged the cover required by the regulations.

The Committee may also wish to advise the firm that the waiver is granted for one year only and that if a waiver is required in future years the firm must reapply.

The amount of uninsured excess

- The firm has provided documentary evidence from its insurer or broker that cover is only available with the amount of uninsured excess specified in the policy.

4.3.5 MR 4(4)(G): Waiver of requirements on verifiable CPD and in exceptional circumstances of non-verifiable CPD

Guideline: refuse the application

Verifiable CPD

- The member has not provided documentary evidence in support of the application (e.g. a medical report explaining any medical issues)
- The member did not undertake an extended programme of non-verifiable CPD to compensate for the lack of verifiable CPD
- The member has failed to meet the verifiable CPD requirements on more than one occasion.

Non-verifiable CPD

- The member has not provided documentary evidence in support of the application (e.g. medical report explaining any medical issues)
- The member has not established that there are exceptional circumstances to justify granting a waiver
- The member has failed to comply with the non-verifiable CPD requirements in previous years
- The member has not provided details of how they intend to comply with the non-verifiable CPD requirements in future years.

Guideline: grant the application

Verifiable CPD

- The member has provided documentary evidence in support of the application (e.g. a medical report explaining any medical issues)
- The member has undertaken an extended programme of non-verifiable CPD to compensate for the lack of verifiable CPD
- The member has complied with the verifiable CPD requirements in previous years
- The member has provided details of how they intend to comply with the verifiable CPD requirements in future years.

Conditions:

The Committee may ask the member to make up some of the shortfall in future years.

Non-verifiable CPD

- The member has provided documentary evidence in support of the application (e.g. a medical report explaining any medical issues)
- The member has established that there are exceptional circumstances to justify granting a waiver
- The member has complied with the non-verifiable CPD requirements in previous years
- The member has provided details of how they intend to comply with the non-verifiable CPD requirements in future years.

Conditions:

The Committee may ask the member to make up some of the shortfall in future years.

4.3.6 GPR 11: Waiver in certain restricted circumstances of the requirements for practice continuity arrangements

Waivers of the continuity of practice requirements are granted administratively by staff to members outside of the UK and Ireland provided that a practising certificate is held from their recognised national accountancy body or regulatory authority and that continuity is not a requirement of that body or authority. The Committee has no power to grant waivers to members in the UK, Ireland, Channel Islands, Isle of Man and Zimbabwe. It is no longer mandatory for members engaged in public practice outside of the designated territories, Zimbabwe and Australia to hold a practising certificate from ACCA provided they hold a practising certificate from a recognised national regulator and/or they are complying with all local legislative and regulatory requirements. Therefore, it is not expected that there will be many waiver requests brought to the Committee.

Guideline: refuse the application

- The member could make continuity arrangements with an ACCA or locally qualified practising accountant but has chosen not to do so
- The member has not provided details of any steps they have undertaken to forge links with other practising certificate holders in order to make appropriate arrangements
- The member has not satisfactorily explained who would look after the professional needs of their clients if they became incapacitated.

Guideline: grant the application

- The member does not hold a local practising certificate as there is no recognised national regulator or the recognised national regulator does not issue practising certificates
- The member has tried to make continuity arrangements with other practising certificate holders but has been unsuccessful and has provided documentary evidence of this
- The member is requesting a temporary waiver for a short period to allow them time to forge links with other practising certificate holders.

Conditions:

The Committee may grant the member a temporary waiver and if they are unable to make arrangements within the time period set by the Committee the application must be referred back to the Committee.

4.3.7 Regulations 6(6) of Appendix 1 of Annex 1 (UK) and Appendix 1 of Annex 2 (Ireland) to the GPRs: Waiver in exceptional circumstances of the requirements relating to obtaining an audit qualification for the UK and/ or Ireland**Two years of continuous ACCA membership:****Guideline: refuse the application**

- The applicant has not demonstrated that any exceptional circumstances exist
- The member has not met the other eligibility requirements for an audit qualification
- The member chose to delay applying for membership
- The member has no, or inadequate, senior level experience in public practice
- The member is unable to provide documentary evidence that a partnership/directorship in a qualified firm of practising accountants has been offered, where they have indicated this is to happen
- The member has not provided adequate, recent references in support of their application
- The member has not provided a reference from another UK or Irish registered auditor

- The member has not provided evidence that they will have access to technical and ethical support from another UK or Irish registered auditor.

Guideline: grant the application

- An unforeseen or unexpected event has occurred that is outside the member's control
- The member has met the other eligibility requirements for an audit qualification
- The member has achieved at least two years of senior level experience in public practice
- The member has provided documentary evidence that a partnership/directorship in a qualified firm of practising accountants has been offered, where they have indicated this is to happen
- The member has provided good, recent references in support of their application, including a reference from a UK or Irish registered auditor
- The member has provided evidence that they will have access to technical and ethical support from another UK or Irish registered auditor.

Practical training in an ACCA approved employer – practising certificate development (audit)

Guideline: refuse the application

- The member has gained their experience in an employer that is not eligible to register as an ACCA approved employer under ACCA's practising certificate development (audit) stream
- The member has not provided evidence that they believed their employer was registered as an ACCA approved employer under the practising certificate development (audit) stream
- The employer is not registered as a training office with another professional body that is recognised to provide training towards the award of an audit qualification
- The employer is not regulated by a competent authority
- The employer has no other offices that are registered as ACCA approved employers under the practising certificate development (audit) stream
- The member has not met all the other qualification requirements for a practising certificate and audit qualification
- The member has not provided adequate, recent references in support of the application.

Guideline: grant the application

- The member has gained their experience in an employer that was not registered as an ACCA approved employer under the practising certificate development (audit) stream for all or part of their training but the employer would have been eligible to register
- The member has provided evidence that they believed their employer was registered as an ACCA approved employer under the practising certificate development (audit) stream
- The employer is registered as a training office with another professional body that is recognised to provide training towards the award of an audit qualification
- The employer is regulated by a competent authority
- The employer has other offices that are registered as ACCA approved employers under the practising certificate development (audit) stream
- The member has met all the other qualification requirements for a practising certificate and audit qualification
- The member has provided adequate, recent references in support of the application.

4.3.8 Appendix 3 of Annex 1 to the GPRs: Waiver in exceptional circumstances of the requirements relating to obtaining an audit qualification in Jersey, Guernsey and Isle of Man

Guideline: refuse the application

- The member has no, or insufficient, senior level experience
- The member has no, or insufficient, experience in an ACCA approved employer
- The member has not provided a practising certificate experience form demonstrating that they have achieved the required competences
- The member has not achieved a substantial amount of audit experience on Channel Islands and/or Isle of Man registered companies
- The member has not achieved at least 44 weeks of audit experience in their training period
- The member has not achieved at least 22 weeks of statutory audit experience during their training period
- The member is unable to provide documentary evidence that a partnership/directorship has been offered, where they have indicated this is to happen
- The member has not provided adequate, recent references in support of the application
- The member intends to practise in a firm where they will be the only audit-qualified principal
- The member has not provided evidence that they will have access to technical and ethical support from another registered auditor or firm of registered auditors.
- The member has not demonstrated adequate competence in audit in the last two years.

Guideline: grant the application

- The member does not require a practising certificate and audit qualification for the UK or Ireland
- The member has already obtained at least two years of supervised experience at a senior level
- The member has provided a practising certificate experience form demonstrating that they have achieved the required competences
- The member has achieved a substantial amount of audit experience on Channel Islands and/or Isle of Man registered companies
- The member has achieved at least 44 weeks of audit experience in their training period
- Although not UK or Irish statutory audit experience the member has achieved at least 22 weeks of statutory audit experience during their training period
- The member has already obtained at least three years of experience in an ACCA approved employer
- The member has been offered a partnership/directorship in a firm and this has been confirmed in writing, and, if the waiver is not granted, the member will be deprived of an opportunity that may not come around again
- The member has provided good, recent references from audit qualified individuals in support of their application
- The member intends to practise in a firm where there will be other audit-qualified principals
- The member has provided written confirmation that they will have access to technical and ethical support from another registered auditor or firm of registered auditors.
- The member has demonstrated adequate competence in audit in the last two years.

The Committee may wish to remind the member that to apply for a practising certificate and audit qualification for the UK or Ireland in the future the member would be required to meet the eligibility requirements in full.



ACCA
110 Queen Street
Glasgow G1 3BX
United Kingdom

+44 (0)141 534 4199

www.accaglobal.com

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Think Ahead